



(Ireland.)

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For abolishing Arrest on Mesne Process in Civil Actions, except in certain cases; for extending the Remedies of Creditors against the Property of Debtors; and for amending the Laws for the Relief of Insolvent Debtors in Ireland.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS the present power of Arrest upon Mesne Process is unnecessarily extensive and severe, and ought to be relaxed; **BE** it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the time appointed for the commencement of this Act, no person shall be arrested upon mesne process in any civil action in any Inferior Court whatsoever, or (except in the cases and in the manner hereinafter provided for) in any Superior Court.

Provision.

1.
Arrest on Mesne Process abolished except in certain cases.

2.
How Actions to be commenced.

And be it Enacted, That all personal actions in Her Majesty's Superior Courts of Law at Dublin, in which a defendant is now liable to be arrested or held to special bail, shall be commenced by service of a copy of the writ or process of such Courts according to the practice of such Courts respectively, unless otherwise directed by special order of a Judge of one of said Superior Courts in manner hereinafter mentioned.

3.
A Judge of a Superior Court may order Defendant to be

And be it Enacted, That if a plaintiff in any action to be commenced in any of Her Majesty's Superior Courts of Law at Dublin, in which a defendant in such action would be now liable to arrest, whether upon

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verdict of an
jury or a Judge.

the order of a Judge, or without such order, shall, by the affidavit of himself or of some other person, show to the satisfaction of a Judge of one of the said Superior Courts, that such plaintiff has a cause of action against such defendant or defendants to the amount of Twenty Pounds or upwards, or has sustained damage to that amount, and that there is probable cause for believing that such defendant or any one or more of such defendants is or are about to quit Ireland, unless he or they be forthwith arrested or held to special bail, it shall be lawful for such Judge, by a special order, to direct that such defendant or defendants so about to quit Ireland shall be held to bail for such sum as such Judge shall think fit, not exceeding the amount of the debt or damages so sworn to as aforesaid; and thereupon it shall be lawful for such plaintiff, within the time which shall be expressed in such order, but not afterwards, to sue out one or more writ or writs of capias into one or more different counties, as the case may require, against any such defendant so directed to be held to bail, which writ of capias shall have marked at the foot thereof or endorsed thereon the sum for which such defendant shall be so ordered to be arrested or held to bail; and said writ shall have subscribed at foot thereof the memorandum and warning, and shall have endorsed thereon the several endorsements in the Form in the Schedule (A.) to this Act annexed, and shall bear date on the day on which the same shall be issued, and be returnable into the Court out of which such writ shall have issued, according to the practice of such Court.

4.
Sheriff may
proceed to
arrest Defendant.

Defendant
to remain in
Custody until
he has Bail,
or makes a
Deposit.

And be it Enacted, That the Sheriff or other officer to whom any such writ of capias shall be directed shall, before the expiration of the return of the said writ, within *One calendar Month* after the date thereof, including the day of such date, but not afterwards, proceed to arrest the defendant thereupon; and such defendant, when so arrested, shall remain in custody until he shall have given a bail-bond to the Sheriff, or shall have made deposit of the sum marked or endorsed on such writ of capias, together with *Ten Pounds* for costs, according to the practice of the said Superior Courts; and all subsequent proceedings, as to the putting in and perfecting special bail, or of making deposit and payment of money into Court instead of putting in and perfecting special bail, shall be according to the like practice of the said Superior Courts, or as near thereto as the circumstances of the case will admit.

5.
Defendant
may apply for
his Discharge
forthwith.

And be it Enacted, That it shall be lawful for any person arrested upon any such writ of capias, to apply, at any time after such arrest, to any Judge of any one of the said Superior Courts at Dublin, or to the Court in which the action shall have been commenced, for an order or rule on the plaintiff or plaintiffs in such action to show cause why the person arrested should not be discharged out of custody; and that

that it shall be lawful for such Judge or Court to make absolute or discharge such order or rule, and to direct the costs of the application to be paid by either party, or to make such other order therein as to such Judge or Court shall seem fit: Provided always, That any such order made by a Judge may be discharged or varied by the Court in which such action shall have been commenced, on application made thereto by either party dissatisfied with such order.

Judge may discharge Defendant or not.

Order of Judge may be appealed from.

6.

Prisoners in Custody on Main Process who have not filed Petitions under Insolvent Acts entitled to be discharged.

And be it Enacted, That every prisoner who at the time appointed for the commencement of this Act shall be in custody upon mesne process for any debt or demand, and shall not have filed a petition to be discharged under the laws now in force for the Relief of Insolvent Debtors in Ireland, or who having filed such petition, the same shall have been dismissed, shall be entitled to his discharge upon entering a common appearance to the action: Provided nevertheless, That every such prisoner shall be liable to be detained, or after such discharge to be again arrested, by virtue of any such special order as aforesaid, at the suit of the plaintiff or plaintiffs at whose suit he was previously arrested or detained, or of any other plaintiff or plaintiffs.

7.

Limitation of Actions, how prevented.

AND in order to prevent the operation of any statute of limitation in bar of the cause of action of any plaintiff in cases in which such cause of action would be barred unless a writ or process issued and was continued for that purpose; BE it Enacted, That every writ or process may be continued by alias and pluries, as the case may require, if any defendant therein named may not have been arrested or held to bail thereunder or served therewith: Provided always, That no first writ shall be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited, unless the defendant shall be arrested or held to bail thereunder or served therewith, or proceeding to or towards outlawry shall be had thereupon, or unless such writ and every writ (if any) issued in continuation of a preceding writ shall be returned non est inventus, and entered of record within *One calendar Month* after the expiration of the return of such writ or process, including the day of such expiration; and unless every writ issued in continuation of a preceding writ shall be issued within *One calendar Month* after the expiration of the preceding writ, and shall contain a memorandum endorsed thereon or subscribed thereto, specifying the day of the date of the first writ, such return of non est inventus to be made in bailable process (in case such bailable process shall be ordered to issue as aforesaid) by the Sheriff or other officer to whom such writ shall be directed or his successor in office, and in process not bailable, in case of non-service thereof, to be made by the plaintiff or his attorney suing out the same and signed by him; and in case such bailable process shall be so returned non est inventus, then for such purpose of preventing the operation of such statute of limitations,

limitations, the same may be continued by alias and pluries writ not serviceable, to be continued and returned in manner aforesaid.

8.
Proceedings
to Outlawry.

And be it Enacted, That in all cases in which a plaintiff intends to proceed to outlaw or waive a defendant by writs of exigi and proclamations in order to compel the appearance of such defendant in any civil action, it shall and may be lawful for such plaintiff to take such proceedings and to sue out such writ and writs of capias for that purpose, in such manner as may be now lawfully done; but no defendant shall be arrested, detained in custody, or held to special bail under or by virtue of such proceeding, writ or writs.

9.
Manner of
making a
Debtor a
Bankrupt.

And be it Enacted, That if any single creditor or any Two or more creditors, being partners, whose debts shall amount to *One hundred Pounds* or upwards, or any Two creditors whose debts shall amount to *One hundred and fifty Pounds* or upwards, or any Three or more creditors whose debts shall amount to *Two hundred Pounds* or upwards, of any trader within the meaning of the laws now in force respecting bankrupts, shall make an affidavit or affidavits before a Master Ordinary or Extraordinary in Chancery (which shall be filed with the proper officer in the office of the Lord Chancellor's Secretary of Bankrupts in Ireland), that such debt or debts is or are justly due to him or them respectively, and that such debtor as he or they verily believe is such trader as aforesaid, and shall cause him to be served personally with a copy of such affidavit or affidavits, and with a notice in writing requiring immediate payment of such debt or debts; and if such trader shall not within *Twenty-one Days* after personal service of such affidavit or affidavits and notice pay such debt or debts, or secure or compound for the same to the satisfaction of such creditor or creditors, or enter into a bond in such sum and with such Two sufficient sureties as a Commissioner of Bankrupts in Ireland shall approve of to pay such sum or sums as shall be recovered in any action or actions which shall have been brought or shall thereafter be brought for the recovery of the same, together with such costs as shall be given in the same, or to render himself to the custody of the Sheriff or other officer of the Court in which such action shall have been or may be brought according to the practice of such Court, or within such time and in such manner as the said Commissioner of Bankrupts shall direct, after judgment shall have been recovered in such action, every such trader shall be deemed to have committed an act of bankruptcy on the *Twenty-second day* after service of such affidavit or affidavits and notice, provided a Commission of Bankruptcy shall issue against such trader within *Two calendar Months* from the filing of such affidavit or affidavits, or, if more than one, from the filing of the first of such affidavits, but not otherwise.

AND

AND whereas it is expedient that provision should be made for giving every person executing a warrant of attorney to confess judgment due information of the nature and effect thereof; BE it Enacted, That from and after the time appointed for the commencement of this Act, no warrant of attorney to confess judgment in any personal action given by any person, shall be of any force unless there shall be present at the time of the execution thereof some attorney of one of the Superior Courts on behalf of such person, expressly named by him and attending at his request to inform him of the nature and effect of such warrant before the same is executed; which attorney shall subscribe his name as a witness to the due execution thereof, and thereby declare himself to be attorney for the person executing the same, and state that he subscribes as such attorney: Provided always, That such attorney not having taken out his annual license or certificate shall not avoid said warrant of attorney or any judgment entered thereon.

10.
Warrants of Attorney and Cognovit Actions to be executed in the presence of an Attorney on behalf of the Person.

And be it Enacted, That a warrant of attorney to confess judgment not executed in manner aforesaid shall not be rendered valid by proof that the person executing the same did in fact understand the nature and effect thereof, or was fully informed of the same.

11.
Warrant, &c. not formally executed invalid.

AND whereas injustice is frequently done to creditors by secret warrants of attorney to confess judgments for securing the payment of money, whereby persons in a state of insolvency are enabled to keep up the appearance of being in good circumstances, and the persons holding such warrants of attorney have the power of taking the property of such insolvents in execution at any time to the exclusion of the rest of their creditors; FOR remedy whereof, be it Enacted, That from and after the if the holder thereof shall think fit, every warrant of attorney to confess judgment in any personal action, or a true copy thereof, and of the attestation thereof, and the defeasance and endorsement thereon (if any) shall within Twenty-one Days after the execution of such warrant of attorney be filed, together with an affidavit of the time of the execution thereof, with the proper Officer in one of Her Majesty's Superior Courts at Dublin in which judgment upon such warrant of attorney shall thereafter be entered up.

12.
Warrants of Attorney in personal actions to be filed within Twenty-one Days.

And be it further Enacted, That from and after the if at any time after the expiration of *Twenty-one* Days next after the execution of such warrant of attorney, a Commission of Bankrupt shall be issued against the person who shall have given such warrant of attorney, under which he shall be duly found and declared a bankrupt, or any such person shall be imprisoned for debt, and file a petition in the Court for Relief of Insolvent Debtors

13.
In what case Warrant of Attorney, &c. devised fraudulent and void.

to be established or continued by virtue of this Act, whereon a vesting order shall be made as hereinafter mentioned, then and in such case, unless such warrant of attorney, or a copy thereof, shall have been filed as aforesaid within the said space of *Twenty-one Days* from the execution thereof, or unless judgment shall have been signed, or execution issued on such warrant of attorney within the same period, and in the Court in which such warrant of attorney, or such copy thereof, shall have been filed, such warrant of attorney, and the judgment and execution thereon, shall be deemed fraudulent and void against the assignees under such commission, and against the provisional or other assignee or assignees of such prisoner appointed under this Act, and such assignee or assignees shall be entitled to recover back and receive for the use of the creditors of such bankrupt or prisoner, all and every the monies levied, or effects seized, under and by virtue of such judgment and execution.

14.
Defalcance
of Warrant of
Attorney, &c.
written on
same paper.

And be it Enacted, That if such warrant of attorney shall be given subject to any defeasance or condition, such defeasance or condition shall be written on the same paper on which such warrant of attorney shall be written, before the time when the same, or a copy thereof respectively, shall be filed, otherwise such warrant of attorney shall be null and void to all intents and purposes.

15.
Office of
Court to keep
a Book con-
taining List
and particu-
lars of each
Warrant of
Attorney and
Cognovit.

And be it Enacted, That the said officer of the said Court in which such warrant of attorney or copy thereof shall be filed, shall cause every such warrant of attorney in any personal action, and every copy thereof filed in his said office, to be numbered, and shall keep a book or books in his said office, in which he shall cause to be fairly entered an alphabetical list of every such warrant of attorney, containing therein the names and additions and descriptions of the respective defendants or persons giving such warrants of attorney; and also the names, additions and descriptions of the plaintiff, or persons in whose favour the same shall have been given, together with the number and dates of the execution and filing of the same, or of a copy thereof respectively, and the sums for which judgment is to be entered up; and also the sums which are specified to be paid by the defeasances or conditions in each warrant of attorney, and the times when the same are thereby made payable, according to the Form contained in the Schedule (B.) to this Act annexed, which said book or books, and every warrant of attorney or copy thereof filed in the said office, shall be searched and viewed by all persons at all reasonable times, paying for every search against each person executing such warrant of attorney the sum of *Sixpence*, and no more.

Fee.

16.
Fee for filing.

And be it Enacted, That there shall be paid for filing and entering such warrant of attorney, or a copy thereof as aforesaid, the sum of *One Shilling*, and no more.

And

And be it Enacted, That any person shall be entitled to have an office copy of each warrant of attorney, or of the copy thereof filed as aforesaid, upon paying for the same at the like rate as for office copies of judgments in each of such Courts respectively.

17.
Office Copy
had on pay-
ing for.

5 And be it Enacted, That it shall be lawful for any of the Judges of the Court in which the said warrant of attorney or copy thereof is filed, to order a memorandum of satisfaction to be written upon such warrant of attorney or copy thereof respectively as aforesaid, if it shall appear to him that the debt for which such warrant of attorney is
10 given as a security shall have been satisfied or discharged.

18.
Satisfaction
entered on
Warrants of
Attorney and
Copies.

AND whereas the existing law is defective in not providing adequate means for enabling judgment creditors to obtain satisfaction from the property of their debtors, and it is expedient to give judgment creditors more effectual remedies against the real and personal estate
15 of their debtors than they possess under the existing law; BE it therefore Enacted, That it shall be lawful for the Sheriff or other officer to whom any writ of elegit, or any precept in pursuance thereof, shall be directed at the suit of any person, upon any judgment which at the time appointed for the commencement of this Act shall have been
20 recovered, or shall be thereafter recovered, in any action in any of Her Majesty's Superior Courts at Dublin, to make and deliver execution unto the party in that behalf suing, of all such lands, tenements, rectories, tithes, rents and hereditaments as the person against whom execution is so sued, or any person in trust for him, shall have been seised or
25 possessed of at the time of entering up the said judgment, or at any time afterwards, or over which such person shall at the time of entering up such judgment, or at any time afterwards, have any disposing power which he might, without the assent of any other person, exercise for his own benefit, in like manner as the Sheriff or other officer
30 may now make and deliver execution of one moiety of the lands and tenements of any person against whom a writ of elegit is sued out, which lands, tenements, rectories, tithes, rents and hereditaments, by force and virtue of such execution, shall accordingly be held and enjoyed by the party to whom such execution shall be so made and
35 delivered, subject to such account in the Court out of which such execution shall have been sued out as a tenant by elegit is now subject to in a Court of Equity.

19.
Sheriff com-
pounded to
deliver exe-
cution of
Lands, &c.
to Judgment
Creditor.

And be it Enacted, That by virtue of any writ of fieri facias to be sued out of any Superior or Inferior Court, after the time appointed
40 for the commencement of this Act, or any precept or warrant in pursuance thereof, the Sheriff or other officer having the execution thereof may and shall seize and take any money or bank notes (whether of the Governor and Company of the Bank of Ireland or of the Governor

20.
Sheriff em-
powered to
seize Money,
Bank Notes,
&c.

And to pay
Money or
Bank Notes
to Execution
Creditors.

And to sue
for amounts
secured by
Bills of Ex-
change, and
other securi-
ties.

Provide as to
liability for
Bonds.

21.
Receiver to
be appointed
or extended
in certain
cases at the
suit of
Creditors by
Judgment or
Recognizance.

and Company of the Bank of England, or of any other bank or banks
of the United Kingdom of Great Britain and Ireland or elsewhere),
and any cheques, bills of exchange, promissory notes, bonds, special-
ties or other securities for money belonging to the person against
whose effects such writ of fieri facias shall be sued out, and may and
shall pay or deliver to the party suing out such execution any money
or bank notes which shall be so seized, or a sufficient part thereof, and
may and shall hold any such cheques, bills of exchange, promissory
notes, bonds, specialties or other securities for money as a security or
securities for the amount by such writ of fieri facias directed to be
levied, or so much thereof as shall not have been otherwise levied and
raised, and may sue in the name of such Sheriff or other officer for
the recovery of the sum or sums secured thereby, if and when the
time of payment thereof shall have arrived, and that the payment to
such Sheriff or other officer by the party liable on any such cheque,
bill of exchange, promissory note, bond, specialty or other security,
with or without suit, or the recovery and levying execution against
the party so liable, shall discharge him to the extent of such payment
or of such recovery and levy in execution, as the case may be, from
his liability on any such cheque, bill of exchange, promissory note,
bond, specialty or other security; and such Sheriff or other officer
may and shall pay over to the party suing out such writ the money so
to be recovered, or such part thereof as shall be sufficient to discharge
the amount by such writ directed to be levied; and if, after satisfaction
of the amount so to be levied, together with Sheriff's poundage and
expenses, any surplus shall remain in the hands of such Sheriff or
other officer, the same shall be paid to the party against whom such
writ shall be so issued: Provided, That no such Sheriff or other
officer shall be bound to sue any party liable upon any such cheque,
bill of exchange, promissory note, bond, specialty or other security,
unless the party suing out such execution shall enter into a bond, with
two sufficient sureties, for indemnifying him from all costs and
expenses to be incurred in the prosecution of such action, or to which
he may become liable in consequence thereof, the expense of such
bond to be deducted out of any money to be recovered in such action.

And be it Enacted, That it shall be lawful for any person entitled to
sue out, or who has already sued out a writ of elegit upon any judg-
ment recovered in any of Her Majesty's Courts at Dublin, or to issue,
or who has issued execution in any suit or proceeding on any recogni-
zance there, to apply by petition to the Court of Chancery, or to the
Court of Exchequer at the equity side thereof, for an order that a
receiver may be appointed over any property, real or personal, by this
Act made liable to be seized, extended, appraised or taken in execu-
tion on any such judgment, or to order that any receiver appointed
before the passing of this Act over the property of any judgment
debtor,

debtor, may be extended to the matter of such new petition; and that in proceeding under the Act of the fifth and sixth of his late Majesty King WILLIAM the Fourth, chapter fifty-five, intituled, "An Act for facilitating the Appointment of Sheriffs in Ireland, and the more effectual Audit and passing their Accounts, and for the more speedy Return and Recovery of Fines, Fees, Forfeitures, Recognizances, Penalties and Deodands, and to abolish certain Officers in the Court of Exchequer in Ireland, and to amend the Laws relating to Grants in Custodiam and Recovery of Debts in Ireland, and to amend an Act of the second and third years of his present Majesty, for transferring the Powers and Duties of the Commissioners of Public Accounts in Ireland to the Commissioners for auditing the Public Accounts of Great Britain," and this Act, the said Court of Chancery and Court of Exchequer at the equity side thereof, shall have power to appoint a receiver in a summary way, on a petition at the instance of such person, over any property of such judgment creditor liable to the payment of the sum secured by such judgment, which such creditor would or could make available for the payment of his judgment debt by filing a bill in a Court of Equity, or by any writ of execution at law under the provisions of this Act; and it shall be lawful for the said Courts respectively to appoint or extend a receiver accordingly over the whole thereof, or over so much thereof as shall appear to be sufficient for the purposes of paying the sum due on such judgment or recognisance; and every such petition shall state the judgment or recognisance, and the sum due thereon, and shall be verified by the affidavit of the person interested, or by such other affidavit as the Court shall direct, stating the sum due for principal, interest and costs over and above all just and fair allowances; and it shall be lawful for the said Court to require proof by the affidavit of the party applying for such order, or by such other affidavit or affidavits or evidence as it shall require, of the particulars of such property over which such receiver shall be sought, and the nature and amount in value thereof, and where situate, as to such Court shall appear just and reasonable; and that it shall not be necessary in proceeding under said last-mentioned Act of the fifth and sixth of his late Majesty King WILLIAM the Fourth, or this Act, at any time during the sittings of said Courts of Chancery or Exchequer, to present a petition, in order to obtain an order of the Court in such matter, after an order shall have been made by such Courts respectively on the first petition presented in any such matter.

And be it Enacted, That a judgment already entered up, or to be hereafter entered up, against any person in any of Her Majesty's Superior Courts at Dublin, shall operate as a charge upon all lands, tenements, rectories, advowsons, tithes, rents and hereditaments, of or to which such person shall have been, or shall at the time of entering up such judgment, or at any time afterwards be seized, possessed or entitled for any estate or interest whatever at law or in equity, whether

22.
Judgment to
operate as a
charge on
real Estate.

in possession, reversion, remainder or expectancy, or over which such person shall at the time of entering up such judgment, or at any time afterwards have any disposing power which he might, without the assent of any other person exercise for his own benefit, and shall be binding as against the person against whom judgment shall have been or shall be so entered up, and against all persons claiming under him after such judgment, and shall also be binding as against the issue of his body, and all other persons whom he might without the assent of any other person cut off and debar from any remainder, reversion or other interest in or out of any of the said lands, tenements, rectories, advowsons, tithes, rents and hereditaments; and that every judgment creditor shall have such and the same remedies in a Court of Equity against the hereditaments so charged by virtue of this Act or any part thereof as he would be entitled to in case the person against whom such judgment shall have been so entered up, had power to charge the same hereditaments, and had by writing under his hand agreed to charge the same with the amount of such judgment debt and interest thereon: Provided always, That no judgment creditor shall be entitled to proceed in a Court of Equity to obtain the benefit of such charge, until after the expiration of *One Year* from the time of entering up such judgment; or in cases of judgments already entered up or to be entered up before the time appointed for the commencement of this Act, until after the expiration of *One Year* from the time appointed for the commencement of this Act; nor shall such charge operate to give the judgment creditor any preference in case of the bankruptcy of the person against whom judgment shall have been entered up, unless such judgment shall have been entered up *One Year* at least before the date of a Commission of Bankruptcy duly sued out against such person: Provided also, That as regards purchasers, mortgagees or creditors who shall have become such before the time appointed for the commencement of this Act, such judgment shall not affect lands, tenements or hereditaments, otherwise than as the same would have been affected by such judgment if this Act had not passed: Provided also, That nothing herein contained shall be deemed or taken to alter or affect any doctrine of Courts of Equity, whereby protection is given to purchasers for valuable consideration without notice, or to alter, affect or delay the right of such judgment creditor to proceed by petition in a summary way to the Court of Chancery or Exchequer on the equity side thereof, to have a receiver appointed under the provisions of the said Act of the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, and of this Act, over the real and personal property of such judgment debtor, at the time and in manner therein and hereinbefore mentioned.

Charge not to be enforced until after the expiration of a Year.

Proviso as to Purchasers, &c.

23.
Stock and Shares in public Funds and public Companies

And be it Enacted, That if any person against whom any judgment shall have been entered up in any of Her Majesty's Superior Courts at Dublin shall have any Government stock, funds or annuities, or any stock

stock or shares of or in any public company in Ireland (whether incorporated or not), standing in his own name in his own right, or in the name of any person in trust for him, it shall be lawful for a Judge of one of the Superior Courts, on the application of any judgment creditor, to order that such stock, funds, annuities or shares, or such
 5 of them or such part thereof respectively as he shall think fit, shall stand charged with the payment of the amount for which judgment shall have been so recovered and interest thereon; and such order shall entitle the judgment creditor to all such remedies as he would
 10 have been entitled to if such charge had been made in his favour by the judgment debtor: Provided always, That no proceedings shall be taken to have the benefit of such charge until after the expiration of Six calendar Months from the date of such order; Provided also, That if any person against whom a sequestration shall issue to enforce the performance of any decree or order of the said Courts of Chancery or Exchequer on the equity side thereof shall be entitled
 15 to any such property as aforesaid, it shall and may be lawful for the sequestrator or sequestrators in the said sequestration named to seize and apply the same under the orders of the Court out of which such
 20 sequestration shall issue.

belonging to the Debtor, and standing in his own name, to be charged by order of a Judge.

AND in order to prevent any person against whom judgment shall have been obtained from transferring, receiving or disposing of any stock, funds, annuities or shares hereby authorized to be charged for the benefit of the judgment creditor under an order of a Judge;
 25 BE it Enacted, That every order of a Judge charging any Government stock, funds or annuities, or any stock or shares in any public company under this Act, shall be made in the first instance *ex parte*, and without any notice to the judgment debtor, and shall be an order to show cause only, and such order (if any Government stock, funds
 30 or annuities standing in the name of the judgment debtor in his own right, or in the name of any person in trust for him, is to be affected by such order), shall restrain the Governor and Company of the Bank of Ireland from permitting a transfer of such stock in the mean time, and until such order shall be made absolute or discharged; and if
 35 any stock or shares of or in any public company standing in the name of the judgment debtor in his own right, or in the name of any person in trust for him, is or are to be affected by any such order, shall in like manner restrain such public company from permitting a transfer thereof; and that if after service of a copy of such order upon the
 40 person or persons to be restrained thereby, and in case of a public company, on the secretary, cashier or other principal clerk of such public company, at the known place of business, or in case of corporations, on any authorized agent of such corporation, and before the same order shall be discharged or made absolute, such corporation or person or persons shall permit any such transfer to be made, then and in such case the corporation, public company or person or persons so permitting

24.
 Order of Judge to be made in the first instance *ex parte*, and on notice to the Bank or Company to operate as a *Distringas*.

such transfer shall be liable to the judgment creditor for the value or amount of the property so charged and so transferred, or such part thereof as may be sufficient to satisfy his judgment; and that no disposition of the judgment debtor in the mean time shall be valid or effectual as against the judgment creditor: And further, That unless the judgment debtor shall within a time to be mentioned in such order, show to a Judge of one of the said Superior Courts sufficient cause to the contrary, the said order shall, after due proof of service of a copy of said order upon the judgment debtor, his attorney or agent, be made absolute: Provided always, That any such Judge shall upon the application of the judgment debtor, or any person interested, have full power to discharge or vary such order, and to award such costs upon such application as he may think fit: Provided also, That any such order made by a Judge may be discharged or varied by the Court in which such judgment shall have been entered up on application made thereto by such judgment debtor or person interested in, and who shall be dissatisfied with such order.

25.
Securities not
required to be
relinquished
if the Person
taken in Exe-
cution.

And be it Enacted, That if any judgment creditor who under the powers of this Act shall have obtained any charge or be entitled to the benefit of any security whatsoever, shall afterwards and before the property so charged or secured shall have been converted into money or realized, and the produce thereof applied towards payment of the judgment debt, cause the person of the judgment debtor to be taken or charged in execution upon such judgment, then and in such case such judgment creditor shall be deemed and taken to have relinquished all right and title to the benefit of such charge or security, and shall forfeit the same accordingly.

26.
Judgment
Debts to carry
Interest.

And be it Enacted, That every judgment debt which shall be entered up after the commencement of this Act, and not confessed or recovered in any penal sum for securing principal and interest, shall carry interest at the rate of Four Pounds per centum per annum from the time of entering up the judgment, or from the time of the commencement of this Act in cases of judgments then entered up and not carrying interest, until the same shall be satisfied, and such interest may be levied under a writ of execution on such judgment.

27.
Decrees and
Orders of
Courts of
Equity, &c. to
have effect of
Judgments.

And be it Enacted, That all decrees and orders of Courts of Equity, and all rules of Courts of Common Law, and all orders of the Lord Chancellor in matters of bankruptcy, and all orders of the Lord Chancellor in matters of lunacy, whereby any sum of money or any costs, charges or expenses shall be payable to any person, shall have the effect of judgments in the Superior Courts of Common Law, and the persons to whom any such monies or costs, charges or expenses shall be payable shall be deemed judgment creditors within the meaning of this Act; and all powers hereby given to the Judges of the Superior Courts of Common Law with respect to matters depending in

in the same Courts shall and may be exercised by Courts of Equity with respect to matters therein depending, and by the Lord Chancellor in matters of bankruptcy and lunacy; and all remedies hereby given to judgment creditors are in like manner given to persons to whom any monies or costs, charges or expenses are by such orders or rules respectively directed to be paid, and the date of the same and amount due on foot thereof shall be stated in any petition for a receiver under said Act of the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, and this Act, as in the case of a petition founded on a judgment entered or recovered in any of such Superior Courts of Law as aforesaid.

Provided always, and be it Enacted, That no judgment of any of the said Superior Courts, nor any decree or order in any Court of Equity, nor any rule of a Court of Common Law, nor any order in bankruptcy or lunacy, shall by virtue of this Act affect any lands, tenements or hereditaments as to purchasers, mortgagees or creditors, unless and until a memorandum or minute containing the same and the usual or last known place of abode, and the title, trade or profession of the person whose estate is intended to be affected thereby, and the Court and the title of the cause or matter in which such judgment, decree, order or rule shall have been obtained or made; and the date of such judgment, decree, order or rule, and the amount of the debt, damages, costs or monies thereby recovered or ordered to be paid, and signed by the party interested therein or his attorney, shall be left with the Prothonotary of the Court of Common Pleas at Dublin, who shall forthwith enter the same particulars in a book, in alphabetical order, by the name of the person whose estate is intended to be affected by such judgment, decree, order or rule; and such officer shall be entitled for every such entry to the sum of *Five Shillings*, and all persons shall be at liberty to search the same book on payment of the sum of *One Shilling*: Provided always, That such officer shall, upon requisition made to him in writing, signed by any person demanding the same, give a copy certified under the hand of such officer or his deputy of the entry of any such judgment, decree, rule or order, and such officer shall be entitled, for a copy of each and every such entry so certified, to the sum of *Two Shillings and Sixpence*, and no more.

28.
No Judgment,
Decree, &c.
to affect real
Estate, other-
wise than as
before the
Act, until
registered.

And be it Enacted, That such new or altered writs shall be sued out of the Courts of Law and Equity as may by such Courts respectively be deemed necessary or expedient for giving effect to the provisions hereinbefore contained, and in such forms as the Judges of such Courts respectively shall from time to time think fit to order; and the execution of such writs shall be enforced in such and the same manner as the execution of writs of mesne process or execution are now enforced, or as near thereto as the circumstances of the cases will admit; and that any existing writ, the form of which shall be in any

29.
New Writs to
be framed.

manner altered in pursuance of this Act, shall nevertheless be of the same force and virtue as if no alteration had been made therein, except so far as the effect thereof may be varied by this Act.

30.
For removal
of Judgments
of Inferior
Courts.

And be it Enacted, That in all cases where any decree or final judgment shall be obtained in any action or suit in any Assistant Barrister's Court or other Inferior Court of Record, in which, at the time of the passing of this Act, a Barrister of not less than Six Years' standing shall act as Judge, Assessor or Assistant in the trial of causes; and also in all cases where any rule or order shall be made by any such Inferior Court of Record as aforesaid, whereby any sum of money, or any costs, charges or expenses shall be payable to any person, it shall be lawful for the Judges of any of Her Majesty's Superior Courts of Record at Dublin, or for any Judge of the said Courts at chambers, either in term or vacation, upon the application of any person who, at the time of the commencement of this Act, shall have recovered, or who shall at any time thereafter recover such judgment, or to whom any money or costs, charges or expenses shall be payable by such rule or order as aforesaid, or upon the application of any person on his behalf, and upon the production of the record of such decree or judgment, or upon the production of such rule or order (such decree, record or rule or order, as the case may be, being respectively signed by the Judge or proper officer thereof), to order and direct the decree or judgment, or, as the case may be, the rule or order of such Inferior Court, to be removed into the said Superior Court, and immediately thereupon such decree or judgment, rule or order shall be of the same force, charge and effect as a judgment recovered in, or a rule or order made by such Superior Court; and all proceedings shall and may be immediately had and taken thereupon, or by reason or in consequence thereof, as if such decree made or judgment so recovered, or rule or order so made, had been originally recovered in, or made by the said Superior Court; and all the reasonable costs and charges attendant upon such application and removal shall be recovered in like manner as if the same were part of such judgment, or rule or order: Provided always, That no such decree, judgment, or rule or order, when so removed as aforesaid, shall affect any lands, tenements or hereditaments as to purchasers, mortgagees or creditors, any further than the same would have done if the same had remained a decree, judgment, rule or order of such Inferior Court, unless and until a writ of execution thereon shall be actually put into the hands of the Sheriff, or other officer appointed to execute the same.

31.
Powers now
vested in the
Court for the
Relief of Insol-
vent Debtors
continued for

AND whereas it is expedient to continue, for the purposes hereinafter mentioned, the laws now in force for the Relief of Insolvent Debtors in Ireland, and to make further provision for the Relief of Insolvent Debtors; BE it therefore Enacted, That from and after the

passing

passing of this Act the powers vested in the Court now established for the Relief of Insolvent Debtors in Ireland shall be and the same are hereby continued and vested in the Court to be continued by virtue of this Act as hereinafter provided, in so far as the same relate to or may be exercised in the matters of the petitions of any persons who, before the time appointed for the commencement of this Act, shall have petitioned the said Court now established for relief (under the provisions of any Act or Acts for the Relief of Insolvent Debtors in Ireland), or of any persons who have obtained their discharge by virtue of any Act for the Relief of Insolvent Debtors in Ireland; and that all things shall and may be done by all persons relating to the matters of all such petitions which such persons might have done if the laws now in force with respect to Insolvent Debtors in Ireland had been continued by this Act.

the purposes herein mentioned

And be it Enacted, That the Court now established for the Relief of Insolvent Debtors in Ireland shall be continued, and that the present Two Commissioners of the said Court shall continue to be the Commissioners of the Court so hereby continued, and to preside therein; and that it shall be lawful for the Lord Lieutenant, or other Chief Governor or Governors of Ireland for the time being, and from time to time, upon any vacancy in any of the said offices of Commissioner, by death or otherwise, to appoint other fit persons, being Barristers-at-law of Ten Years' standing at the least, and who shall have actually practised Ten Years, and who shall not, at the time of their respective appointment to such office, have retired from practice in Her Majesty's Courts of Law in Dublin for more than Two Years, to be such Commissioners, and to preside in the said Court accordingly, and that the present Chief Clerk, Provisional Assignee, and other officers of the said Court, shall continue to be the Chief Clerk, Provisional Assignee, and other officers of the Court so hereby continued; and that it shall be lawful for the said Court from time to time, upon any vacancy in any of the said offices by death or otherwise, to appoint other fit persons to be Chief Clerk, Provisional Assignee, and other officers; and also to determine from time to time, as occasion may require, the particular duties to be performed respectively by all the several officers hereby continued or hereafter to be appointed as aforesaid; and that the Court so hereby continued as aforesaid shall at all times have power to appoint such officers as the Lord Chancellor and the Lords Chief Justices of the Queen's Bench and Common Pleas, and the Lord Chief Baron of the Exchequer in Ireland, shall judge to be necessary, and in such manner as they shall direct.

32.
Court now established, and Commissioners and Officers to be continued.

And be it Enacted, That the Commissions of the said Commissioners of the said Court hereby continued in their offices, or hereafter to be appointed as aforesaid, shall be continued and remain in full force during their good behaviour, notwithstanding the demise of Her

33-
Commissions to hold their Office during good behaviour.

Majesty (whom God long preserve), or of any of Her heirs or successors.

34-
But may be
removed upon
Address.

Provided always, and be it Enacted, That it may be lawful for Her Majesty, Her heirs and successors, to remove any such Commissioner of the said Court, upon the Address of both Houses of Parliament.

35-
Salaries of
Commissioners to be
the salaries
now payable.

And be it Enacted, That there shall be paid to the said Commissioners hereby continued or hereafter to be appointed as aforesaid, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, at the receipt of Her Majesty's Exchequer in Ireland, such yearly salaries or sums of money as the said Commissioners hereby continued are now by law entitled to receive as such Commissioners of the said Court hereby continued, the same to be paid upon the same days and in like manner as is now by law provided in that behalf.

36-
Court to be a
Court of
Record.
Seal of the
Court.

Powers of
Court and
Commissioners.

And be it Enacted, That the said Court for the Relief of Insolvent Debtors in Ireland shall be a Court of Record for the purposes of this Act, and shall cause to be sealed with the seal of the said Court all such records, proceedings, documents, and copies of the same, as are hereinafter expressly required to be so sealed, and such other records, proceedings, documents, and copies of the same, as the said Court shall at any time direct; and that the said Court, or any Commissioner thereof acting under the powers of this Act, may adjourn any sitting of the said Court or Commissioner as may be requisite, and may administer oaths and examine all parties and witnesses upon oath for the purposes of this Act, and shall have such like and the same powers of compelling the attendance of witnesses, both before the said Court and before any Commissioner thereof acting as aforesaid, and before an officer of the Court, or as hereinafter mentioned, and of requiring and compelling the production of books and writings as are now possessed by any of the Superior Courts in Dublin; and to order any prisoner whose estate shall, by an order to be made under this Act as hereinafter mentioned, have been vested in the Provisional Assignee of the said Court, or any prisoner, who shall be a necessary and material witness in any matter pending in the said Court, to be brought before the said Court or Commissioner, or officer, as often as shall be requisite; and that the said Court, or any Commissioner thereof acting as aforesaid, shall have the power of committing all persons guilty of any contempt of the said Court to Her Majesty's prison of Kilmainsham, or to the common gaol of any county in which such person shall be or shall usually reside; and that the said Court shall have the power of fining in a summary way, or suspending or removing any of the officers of the said Court who shall be guilty of any negligence, wilful or unnecessary delay, or other misconduct whatsoever: Provided always, That the said Court, or any Commissioner thereof, shall not have the power of awarding costs against any person or persons whomsoever, except

except in such cases only where such costs are hereinafter expressly mentioned and permitted to be awarded by this Act; and that nothing herein contained shall extend to the compelling the attendance of any witness, unless the party on whose behalf such witness shall be
 5 required to attend shall have previously tendered to such witness such allowance for expenses for his attendance as in the judgment of the said Court, or of a Commissioner thereof, shall appear to be reasonable.

And be it Enacted, That all proceedings and matters to be heard by the said Court for the Relief of Insolvent Debtors shall be heard and
 10 determined by the said Court, at the Court-house of the said Court, on Lower Ormond Quay, Dublin, unless the said Court shall at any time see cause to appoint its sittings in any other place, and shall appoint the same accordingly, which it is hereby empowered to do; and that the said Court shall sit for the despatch of business from day to day,
 15 Sundays, Christmas-day and Good Friday only excepted, so long as any part of the business of the said Court shall be ready, and as the said Court shall find such sitting necessary for the due despatch of the business of the said Court, and save as hereinafter otherwise provided: Provided nevertheless, That during the period between the last day of
 20 Trinity Term and the First day of November in every year, the said Court shall have full power and authority to regulate and appoint the sittings of the said Court, at such times as to the said Court shall appear fit and necessary for the despatch of business and the due administration of justice in the said Court: Provided, That the said
 25 Court shall not be adjourned at any time during the said period for more than Two calendar Months at any one time.

And be it Enacted, That the said Commissioners shall from time to time severally make circuits, and give their attendance at the several assize or other towns or places at which any prisoner or pri-
 30 soners shall be ordered to appear as hereinafter provided; and that upon such prisoner's appearance before such Commissioner on his circuit, it shall be lawful for such Commissioner to make all such orders, and to give all such directions, and to do all such matters and things requisite for the discharging or remanding of such prisoner, and
 35 otherwise respecting such prisoner and his schedule, and his creditors and assignees, as the said Court for the Relief of Insolvent Debtors may make, give or do in the matters of petitions heard by the said Court according to this Act; and that in each and every matter to be heard and inquired into by such Commissioner according to the pro-
 40 visions of this Act, such Commissioner shall have the same power as the said Court would have therein if same were heard and inquired into by the said Court; and that all judgments, rules, orders, directions and proceedings pronounced, made and done in all and every the matters aforesaid by such Commissioner shall be transmitted to the said Court, signed by such Commissioner, to be a record of the said Court, and to be kept as such among the records thereof.

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And

37.
Court to sit
at the Court-
house in Por-
tugal-street
and elsewhere
if necessary.

38.
Commissioners to
make Circuit.

Power of
Commissioner on
Circuit.

39.
Time and
manner of
making
Circuits.

Travelling
Expenses to
be paid.

One Commis-
sioner to re-
main in Dub-
lin.

All Commis-
sioners may
be on Circuit
if necessary.

And be it Enacted, That the said circuits shall be made *Three*
times in each year if requisite; and that the time and manner of
making the same, and the officers necessary to attend the Com-
missioners thereupon, shall be regulated in such manner as shall
be appointed by the Commissioners of the said Court, with the
approbation of the Lord Lieutenant, or other Chief Governor or
Governors of Ireland for the time being; and that it shall be lawful
for the Lord Lieutenant, or other Chief Governor or Governors of
Ireland for the time being, to direct that such sum or sums shall be
paid as may appear fit and necessary for the defraying the travelling
expenses of such Commissioners and officers in execution of their
duties under this Act; and that during the said circuits one of the
said Commissioners shall be attendant and presiding in the said Court
in Dublin, unless said Court shall have been adjourned to some future
time: Provided always, That if on any particular occasion the said
Commissioners, or one of them in the absence of the other, shall be of
opinion that it would be expedient that both the said Commissioners
should be absent from the said Court on circuits in different places at
the same time, it shall be lawful for such Commissioners to state such
opinion, together with the grounds and reasons thereof in writing, to
the Chief or Under-Secretary at the Castle of Dublin, for the informa-
tion of the Lord Lieutenant, or other Chief Governor or Governors
as aforesaid; and thereupon, if such Lord Lieutenant, or other Chief
Governor or Governors, shall approve thereof, and such approval shall
be notified in writing to such Commissioners by such Chief or Under-
Secretary, it shall be lawful for both the said Commissioners to be so
absent from the said Court as aforesaid at the same time, in such places
respectively as shall be so stated and approved, and for that purpose
to adjourn the said Court for such time as shall be approved in and by
such notification.

40.
Notice to be
given of the
Attendance of
Commissioners in the
Assize Towns.

Provision for
Adjournment of the
Court.

And be it Enacted, That the said Court for the Relief of Insolvent
Debtors shall cause notice of the time and place or places of the
attendance of said Commissioner in each assize town, according to
this Act, to be given in the Dublin Gazette, and in some public
journal or newspaper circulated in the county wherein such town is
situate, once in each of the Two Weeks immediately preceeding the
time appointed for such attendance; and that if on any day to which
such Court in Dublin shall be adjourned as aforesaid, or shall be
appointed for the attendance of a Commissioner of the said Court on
his circuit, such Commissioner shall be, by death, sickness or other
casualty, or by any reasonable cause, prevented from attending at the
Court-house or other place, pursuant to such adjournment or ap-
pointment, then and in every such case the Court to be held by such
Commissioners or Commissioner shall be considered as adjourned to
the ensuing day, not being a Sunday, Christmas-day or Good Friday;
and if the ensuing day should be a Sunday, Christmas-day or Good
Friday,

Friday, then to the next following day, and so on from day to day until one of the said Commissioners shall give his attendance; and that all persons summoned or bound, or having occasion to attend such Court, shall thereupon be bound to attend the same, according to every such adjournment, in the same manner in all respects as if the said Commissioner had regularly sat and so adjourned the said Court; and that when such Commissioner, or some other person appointed to act in his room and stead as hereinafter provided, shall so give his attendance, he shall proceed to despatch the business of the said Court in the same manner in all respects as if such Commissioner had regularly sat and had himself made such adjournment or adjournments of the same; and that such Commissioner (or in case of his death or sickness, one of the Registrars of the said Court) shall thereupon, without delay, state in writing the reason or cause which prevented his attendance on the day appointed for such attendance, and shall subscribe such statement, and shall send the same forthwith by Her Majesty's post to the said Chief or Under-Secretary, to be laid before the Lord Lieutenant or other Chief Governor or Governors as aforesaid.

Case of non-attendance to be signified to the Chief or Under-Secretary.

Provided also, and be it Enacted, That if either of the said Commissioners shall, from sickness or other reasonable cause, have occasion to be absent from the business of the said Court further or otherwise than as aforesaid, then and in every such case it shall and may be lawful to and for the Lord Lieutenant, or other Chief Governor or Governors of Ireland, to appoint a person, being a Barrister-at-law of Ten Years' standing at the least, to perform the duties of such Commissioner during such absence; and every such person so appointed to perform the duty of such Commissioner as aforesaid, shall, during the continuance of such deputation or appointment, have all and every the rights, powers and authorities, and be subject to all the duties, of such Commissioner under this Act; and every such person who shall be so appointed to act during the absence of such Commissioner as aforesaid, shall receive from the said Consolidated Fund such proportion, and no more, of the salary of such Commissioner for and during the period of his service as shall be directed in and by the warrant under which he shall be so appointed, and the residue only of such salary shall for such period be payable to such Commissioner.

41.
In case of illness of a Commissioner, another Person may be appointed to execute the Duties.

And be it Enacted, That the said Commissioners shall not receive, or be entitled to receive, in the said Court for the Relief of Insolvent Debtors, or otherwise as such Commissioners, any fee or fees of any nature or kind whatsoever, nor shall any fee or fees be receivable by any of the officers of such Court, except by the Chief Clerk thereof, who is hereby empowered to receive, and shall be entitled to demand and receive from every prisoner who may seek to be discharged by the said Commissioners under the provisions of this Act, the sum of

42.
No Fee is to be taken by the Commissioners,

nor by any Officer except the Chief Clerk,

who is to be paid 5s. for every Prisoner discharged.

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C 2

Five

Five Shillings, British, and no more, the same to be payable upon the presenting the petition of such insolvent, and also such fees for copies as are hereafter expressly allowed.

43.
Provision
for defraying
the Expenses
of the Court
for Coals,
Candles,
Stationery
and travelling
Charges out of
the Consolidated
Fund.

AND for making provision to defray the expenses of coals, candles and stationery which may be consumed during the sittings of the said Court, established by this Act, and to defray the travelling charges of such Clerks and officers as may be necessary to accompany the said Commissioners or either of them in their said circuit; BE it Enacted, That the said expenses of coals, candles, stationery and travelling charges shall be in like manner defrayed and paid, and payable out of the said Consolidated Fund, upon the several quarterly days following; namely, on every Fifth day of January, Fifth day of April, Fifth day of July, and Tenth day of October in each and every year: Provided, That the accounts thereof shall be first certified by the Chief Clerk of the said Court, and stated by the said Commissioners, or one of them, and thereupon the same shall be paid at the receipt of Her Majesty's Exchequer in Ireland, to the order of the said Commissioners, or one of them in that behalf.

44.
Court-house
to be pro-
vided.

And be it Enacted, That it shall and may be lawful to and for the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being, to order that now and at all other times, when he or they shall think proper or necessary, a suitable and sufficient Court-house, with suitable and sufficient offices for the purposes aforesaid respectively, shall be provided and maintained in good and sufficient order and repair, and that for that purpose such ground shall be procured or purchased; and such Court-house and offices erected thereon, or such building or buildings as may be necessary for such Court-house and offices, shall be taken at a rent or rents, and repairs, alterations and additions shall be made therein respectively, according to such plans, estimates and contracts as the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being shall direct.

45.
Provision for
defraying Ex-
penses of
Court-house.

And be it Enacted, That all and every sum and sums of money which shall from time to time be required and be necessary for the purchase of such ground and buildings thereon, or for the rent or rents of any such building, or for such alteration, addition or repairs, shall from time to time be paid out of the Consolidated Fund, by or under the orders and directions of the Lord Lieutenant or other Chief Governor or Governors of Ireland.

46.
Copies how
attested.

Fee for
Copies.

And be it Enacted, That any office copy of any record, proceeding or instrument of or in the said Court shall be attested by the Chief Clerk thereof, or his Deputy, who shall be and be deemed the proper officer in that behalf; and that for providing and attesting any such office copy, such Clerk shall be entitled to receive Two-pence for every sheet therein, every such sheet to contain Seventy-two words, and

and no more, unless the same shall be the last or only sheet thereof, in which case such last or only sheet may contain any number of words not exceeding Seventy-two words.

And be it Enacted, That on the taxation of costs in the said Court, the proper officer in that behalf, and in every matter of inquiry duly referred by the said Court to any officer or officers thereof, any such officer shall have full power to administer oaths and to examine all persons concerned, or who shall come or be produced before him on oath concerning the matter of such taxation or inquiry respectively : and it shall and may be lawful to and for such Court to order and enforce the attendance of witnesses, and production of books, papers, documents and vouchers, before such officer on such taxation and inquiries respectively, in the same manner in all respects as such Court could or might order or enforce the same on any inquiry or trial before the said Court.

47.
Power to Officers, on inquiries directed by the Court, to administer the Oaths.

Power to Court to order and enforce the Attendance of Witnesses before such Officers.

And be it Enacted, That from and after the time appointed for the commencement of this Act, it shall be lawful for any person who shall be in actual custody within the walls of any prison in that part of the United Kingdom called Ireland, upon any process whatsoever, for or by reason of any debt, damages, costs, sum or sums of money, or for or by reason of any contempt of any Court whatsoever for non-payment of any sum or sums of money, or of costs taxed or untaxed, either ordered to be paid or to the payment of which such person would be liable in purging such contempt, or in any manner in consequence or by reason of such contempt, at any time within the space of Fourteen Days next after the commencement of the actual custody of such prisoner, whether such commencement shall have been in the same prison or in any other prison, or the rules or liberties of any prison, or afterwards, if the said Court shall in any case think reasonable to permit the same, to apply by petition in a summary way to the said Court for the Relief of Insolvent Debtors for his discharge from such custody, according to the provisions of this Act ; and in such petition shall be stated the time and place of the first arrest of such prisoner, the cause or causes wherein he shall then be detained, and the time of his commitment to the prison where he shall then be confined ; and if such prisoner shall not have been in the same custody from the time of such first arrest, then the means and manner by which the change of custody of such prisoner has taken place, and also the name or names of the person or persons at whose suit or prosecution such prisoner shall, at the time of presenting such petition, be detained in custody ; and the amount of the debt or debts, sum or sums of money, and of such costs as aforesaid, so far as the amount of such costs is ascertained for which he shall be so detained ; and such prisoner shall, in such petition, state that he is willing that all his real and personal

48.
Persons imprisoned for Debt may apply to the Court in a summary way for Discharge.

Time of petitioning.

What shall be stated in the Petition.

estate and effects shall be vested in the Provisional Assignee for the time being of the said Court, according to the provisions of this Act, and shall pray to be discharged from custody, and to have future liberty of his person against the demands for which such prisoner shall be then in custody, and against the demands of all other persons who shall be or claim to be creditors of such prisoner at the time of presenting such petition, which petition shall be subscribed by the said prisoner, and shall forthwith be filed in the said Court.

Petition to be signed and filed.

49.
Detaining
Creditors
of Prisoners
in Execution
may apply by
Petition to
Insolvent
Debtors'
Court for an
Order to vest
Debtors' Es-
tates in Pro-
visional Assign-
ee of Court.

And be it Enacted, That if any prisoner who, at the time appointed for the commencement of this Act, shall have been committed to any prison or gaol, and charged in execution for any debt, damages or any costs or sum or sums of money, or committed for or by reason of any contempt of any Court whatsoever for non-payment of any sum or sums of money, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such prisoner would be liable in purging such contempt, or in any manner in consequence or by reason of such contempt, shall not within *Twenty-one Days* next after the time appointed for the commencement of this Act, make satisfaction to the creditor or creditors at whose suit such prisoner shall have been so committed or charged in execution for such debt, damages, costs, sum or sums of money, or to the person or persons entitled to the money, for the non-payment of which such prisoner shall have been in contempt, or to the payment of which such prisoner would be liable in consequence or by reason of such contempt, or if any prisoner who, after the time appointed for the commencement of this Act, shall be committed to any prison or gaol and charged in execution for any debt or damages, or any costs, or sum or sums of money, or committed for or by reason of any such contempt as aforesaid, shall not, within *Twenty-one Days* after such prisoner shall be so committed or charged in execution as aforesaid, make satisfaction to the creditor or creditors at whose suit such prisoner shall have been so committed or charged in execution for such debt, damages, costs, sum or sums of money, or to the person or persons entitled to the money for non-payment of which such prisoner shall have been in contempt, or to the payment of which such prisoner would be liable in consequence or by reason of such contempt, then and in any of the said cases it shall be lawful for any such creditor or creditors or person or persons entitled to such money as aforesaid, to apply by petition in a summary way to the said Court for the Relief of Insolvent Debtors for an order vesting the real and personal estate and effects of such prisoner in the Provisional Assignee for the time being of the said Court, according to the provisions of this Act; and such petition shall be signed by the party or parties so applying; and in such petition shall be stated the time and place of the commitment or charge in execution of such prisoner at the suit of the party or parties so applying, and the amount of the debt

debt or sum of money for which such prisoner shall have been so committed or charged in execution; and such petition shall be supported by such evidence, by affidavit or otherwise, of the truth of the matters therein stated, as the Court shall think fit to require; and the party or parties presenting such petition shall thereby state that he or they is or are desirous that such prisoner should be ordered to file a schedule of his property according to the provisions of this Act, and should thereupon be brought up before the said Court, to be dealt with according to the provisions of this Act; and such petition and the evidence in support thereof shall forthwith be filed in the said Court; and for the filing of which petition the said Chief Clerk shall receive and be entitled to demand and receive for each petitioner presenting such petition the sum of Five Shillings, British, and no more; and the said Court shall and may require such prisoner to file his schedule, and shall and may cause such prisoner to be brought up to be dealt with according to this Act, and all things to be done thereupon or preparatory thereto, as in other cases according to this Act.

And be it Enacted, That upon the filing of such petition by such prisoner, or on the filing of such petition by such creditor or creditors as aforesaid, and the evidence in support thereof, as the case may be, it shall be lawful for the said Court for the Relief of Insolvent Debtors, and such Court is hereby authorized and required to order that all the real and personal estate and effects of such prisoner, both within this realm and abroad (except the wearing apparel, bedding and other necessities of such prisoner and his family, and the working tools and implements of such prisoner, not exceeding in the whole the value of Fifteen Pounds), and all the future estate, right, title, interest and trust of such prisoner in or to any real and personal estate and effects within this realm or abroad, which such prisoner may purchase, or which may revert, descend, be devised or bequeathed, or come to him, before he shall become entitled to his final discharge in pursuance of this Act, according to the adjudication made in that behalf; or in case such prisoner shall obtain his full discharge from custody without any adjudication being made by the said Court, then before such prisoner shall be so fully discharged from custody; and all debts due or growing due to such prisoner, or to be due to him or her before such discharge as aforesaid, shall be vested in the Provisional Assignee for the time being of the said Court, and such order shall be entered of record in the same Court, and such notice thereof shall be published as the said Court shall direct; and such order, when so made, shall, without any conveyance or assignment, vest all the real and personal estate and effects of such prisoner, and all such future real and personal estate and effects as aforesaid of every nature and kind whatsoever, and all such debts as aforesaid, in the said Provisional Assignee; Provided always, That in case the petition of any such

50.
Prisoner's
Estate and
Effects, except
wearing Ap-
parel, &c.
not exceeding
15*l*, and
future Estate,
to be vested
in Provisional
Assignee by
order of the
Court.

prisoner shall be dismissed by the said Court (which the said Court is hereby empowered to dismiss wherever it shall seem fit), such vesting order made in pursuance of such petition shall, from and after such dismissal, be null and void to all intents and purposes: Provided also, That in case any such vesting order as aforesaid shall become null and void by the dismissal of the prisoner's petition, all the acts theretofore done by the said Provisional Assignee, or any person or persons acting under his authority, according to the provisions of this Act, shall be good and valid; and no action or suit shall be commenced against such Provisional Assignee, nor against any person duly acting under his authority, except to recover any property, estate, money or effects of such prisoner detained, after an order made by the said Court for the delivery thereof, and demand made thereupon, but not sooner: Provided also, That when such vesting order shall have been made on the petition of a creditor as aforesaid, it shall be lawful for the said Court, if it shall seem just and right, but not without proof made to the satisfaction of the said Court of the consent of the petitioning creditor, to make order, declaring such vesting order to be null and void, and the same shall thereupon be null and void to all intents and purposes: Provided always, That where in any case, by leave of the said Court, any amendment shall be made in any such petition, or an amended petition shall be filed as of the date of the original petition (which the said Court is hereby empowered to do and authorize, without dismissing such original petition), such vesting order shall not thereby be affected, but shall stand good to all intents and purposes, notwithstanding such amendment or amended petition so filed as aforesaid.

51.
Prisoners
within the
Walls only to
petition;

except in cer-
tain cases.

And be it Enacted, That no prisoner shall upon his own petition be entitled to the benefit of this Act who shall not be, at the time of filing his petition, and during all the proceedings thereon, in actual custody within the walls of the prison, without any intermission of such imprisonment by leave of any Court or otherwise: Provided always, That if, after any such prisoner shall have obtained an order to be brought up in order to be dealt with according to the provisions of this Act, it shall appear to the satisfaction of the said Court, by the oath or affidavit of a physician, surgeon or apothecary, and such other evidence as the Court may require, that such prisoner cannot continue to reside within the walls of any such prison without serious injury to the health of such prisoner, or that for the sake of the health of the prisoners in general, it is necessary that the number thereof within the walls of any such prison should be reduced, it shall be lawful for the said Court to dispense with such actual custody of any such prisoner within the walls as is hereinbefore mentioned: Provided always, That if any such prisoner, having obtained such dispensation, shall go beyond the rules and liberties in which he shall in pursuance thereof be

Power to Insolvent Debtors' Court to direct Prisoners to be discharged on his finding Sureties to attend at the time and place of hearing.

he confined, such prisoner shall thereby be deprived of all benefit of this Act: Provided also, That after any order shall have been made under this Act, directing any insolvent to be brought up in order to be dealt with according to the provisions of this Act, it shall be lawful
 5 for the said Court for the Relief of Insolvent Debtors, if such Court shall think fit so to do, and on such notice to the detaining creditor or creditors of such insolvent as the said Court shall deem proper, to direct such insolvent to be discharged out of custody, on his finding Two sufficient sureties to enter into a recognizance to the Provisional Assignee
 10 of the said Court, in such sum as the said Court shall think fit, with a condition that such insolvent shall duly appear at the time and place fixed for the hearing of the petition of such insolvent, and on every adjourned hearing, and shall abide by the final judgment of the said Court, or a Commissioner thereof on his circuit, and on such other
 15 terms (if any) as the said Court shall think fit to impose, and to issue a warrant directed to the gaoler, ordering the discharge of such insolvent from custody accordingly; and that after such discharge such insolvent shall be free from arrest or imprisonment by any creditor whose debt shall be specified in the schedule filed by such
 20 insolvent as hereinafter mentioned, until the time appointed for the hearing of such insolvent, and for such further time (if any) as the said Court shall by endorsement on such order from time to time appoint: Provided always nevertheless, That in case any insolvent so discharged out of custody shall not duly appear at the time and place
 25 fixed for the hearing or any adjourned hearing of such insolvent (not being prevented by illness or other lawful impediment to be allowed of by the said Court), the recognizance so entered into shall be forfeited, and the amount secured thereby shall be recoverable in a summary way, by a distress and sale of the goods and chattels of such
 30 sureties as the said Court shall by their order direct; and the amount so recovered shall be applied for the benefit of the creditors of such insolvent, in like manner as if the same were part of his estate and effects; and the said Court may also issue a warrant, authorizing any person or persons to be therein named to apprehend and arrest such
 35 insolvent, and deliver him into the custody of the gaoler or keeper in whose custody such prisoner was at the time when he was so discharged as aforesaid; and such gaoler or keeper is hereby required to receive such prisoner again into his custody; and all detainers which were in force against him at the time of such discharge, or which
 40 shall have since been duly lodged against him, shall thereupon be deemed to be in force: Provided also, That any insolvent so discharged out of custody as aforesaid shall, on his appearing before the said Court or Commissioner, be deemed and considered for all the purposes of this Act, in the custody in which he was at the time he was so discharged.

52.
Filing Peti-
tion as act of
Bankruptcy,
if acted upon
within a cer-
tain time; in
which case
Order
revoked.

And be it Enacted, That the filing of the petition of every person in actual custody who shall be subject to the laws concerning bankrupts, and who shall apply by petition to the said Court for his discharge from custody according to this Act, shall be accounted and adjudged an act of bankruptcy from the time of filing such petition; and that any Commission of Bankruptcy issuing against such person, and under which he shall be declared bankrupt before the time appointed by the said Court, and advertised in the Dublin Gazette for such prisoner to be brought up to be dealt with according to this Act, or at any time within *Two* calendar Months from the time of making any such vesting order as aforesaid, whether upon the petition of such prisoner or the petition of any such creditor as aforesaid, shall have the effect of divesting the said real and personal estate and effects of such person out of the said Provisional Assignee: Provided always, That the filing of such petition shall not be deemed an act of bankruptcy unless such person be so declared bankrupt before the time so advertised as aforesaid, or within such *Two* calendar Months as aforesaid; but that every such order as aforesaid shall be good and valid notwithstanding any Commission of Bankruptcy under which such person shall be declared bankrupt after the time so advertised as aforesaid, and after the expiration of such *Two* calendar Months as aforesaid.

53.
Order to be
filed, although
revoked by
Commission of
Bankruptcy;

and Court
shall proceed
to hear and
adjudicate as
in other cases.

If Insolvent
obtain his
Certificate, the
rights of As-
signees after-
wards to be
the same as
in other cases.

Provided always, and be it Enacted, That where the order vesting the estate and effects of any such prisoner in the Provisional Assignee of the said Court, in pursuance of the provisions of this Act, shall be or become void by reason of such prisoner being declared bankrupt within such period as above mentioned, or being an uncertified bankrupt at the time of such order, the said order shall nevertheless, together with the petition of such prisoner (if any), remain of record in the said Court; and the said Court shall and may require such prisoner to file his schedule, and shall and may cause such prisoner to be brought up to be dealt with according to this Act, and all things to be done thereupon or preparatory thereto as in other cases according to this Act; and the said Court shall and may at any time when it shall seem fit, appoint other assignee or assignees in such case in the same manner as in other cases; and that if at any time after such vesting order shall have been made such prisoner shall obtain his certificate under any such Commission of Bankruptcy, the rights, powers, title and interest of the Provisional Assignee and other assignee or assignees appointed under this Act, over and respecting any property, real or personal whatsoever, remaining to such prisoner after the obtaining of such certificate, or thereafter in any way coming to him, and under and in pursuance of the warrant of attorney to be executed by such prisoner under the provisions of this Act, shall from and after the obtaining of such certificate be the same as if the vesting order made under this Act had been valid at the time of the making thereof: Provided always,

always, That nothing herein contained shall be construed to affect the title, rights and interests of the assignees under any such Commission of Bankruptcy, or to alter or diminish the effect of any such certificate as aforesaid; but that the title, rights and interests of such last-mentioned assignees, and the benefit of such certificate to such prisoner, shall be the same to all intents and purposes as if this Act had not been made.

Not to affect title of Assignees of Bankrupt, or operation of Certificate.

And be it Enacted, That no prisoner whose estate shall by an order under this Act have been vested in the said Provisional Assignee, shall after the making of such order be discharged out of custody as to any action, suit or process for or concerning any debt, sum of money, damages or claim, with respect to which an adjudication can under the provisions of this Act be made, by or by virtue of any supersedeas, judgment of non-pros, or judgment as in the case of a nonsuit, for want of the plaintiff or plaintiffs in such action, suit or process proceeding therein.

54- Prisoner not to be discharged for want of Plaintiff proceeding in his Action.

And be it Enacted, That it shall be lawful for the Provisional Assignee or any officer of the said Court or other person or persons appointed for that purpose (if the said Court shall so order), to take possession of all the real and personal estate and effects of every such prisoner vested in such Provisional Assignee by virtue of any such order as aforesaid; and if the said Court shall so order, to sell or otherwise dispose of such goods, chattels and personal estate or any part thereof, and of the real estate of such prisoner according to the provisions hereinafter made with regard to the sale of such real estate, and out of the proceeds of such real and personal estate, to defray in the first place all such costs and expenses of taking possession, or of seizing and selling the same, as shall be allowed by the said Court, and to account for the produce of such sale or disposition to the said Court; and it shall be lawful for the said Provisional Assignee to sue in his own name, if the said Court shall so order, for the recovering, obtaining and enforcing of any estates, debts, effects or rights of any such prisoner, and all and every the real and personal estate, money and effects vested in or possessed by such Provisional Assignee by virtue of such order as aforesaid, shall not remain in him if he shall resign or be removed from his office, nor in his heirs, executors or administrators in case of his death, but shall in every such case go to and be vested in his successor in office appointed by the said Court as aforesaid.

55- Provisional Assignee to take possession of Estates, &c. vested in him, and sell the same if the Court direct.

paying the Expenses, &c.

to sue in his own name, &c.

Property vested in him to go to his Successor in office.

And be it Enacted, That the said Court for the Relief of Insolvent Debtors may order and direct such Provisional Assignee as aforesaid, or such assignee or assignees as are hereinafter mentioned, to pay to any such prisoner out of his or her estate and effects such allowance

56- Court may order Allowance to Prisoner during his Confinement, or for Expense of Subsistence.

for his or her support and maintenance during such prisoner's imprisonment, and previous to the adjudication in the matter of his petition, or for the expense of making out and filing his schedule, as to the said Court shall seem reasonable and fit.

57.

Where Prisoner is discharged out of Custody, acts of Assignees to be valid.

No Action to be brought against them where Assignment is avoided.

Provided always, and be it Enacted, That in case any prisoner as to whose estate and effects any such vesting order as aforesaid shall have been made, shall, by the consent or default of his detaining creditor or creditors, be discharged out of custody without any adjudication being made in that behalf by the said Court for the Relief of Insolvent Debtors, all the acts done before such discharge by the said Provisional Assignee or other assignee or assignees appointed as hereinafter provided, or other person or persons acting under his or their authority, or the authority of the said Court, according to the provisions of this Act, shall be good and valid; and that in such case, or in case such vesting order as aforesaid shall be avoided by any Commission of Bankruptcy thereafter issuing against such prisoner as hereinbefore provided, no action or suit shall be commenced against such Provisional Assignee, or against any assignee or assignees appointed under this Act, nor against any person duly acting under his or their authority or the authority of the said Court, except to recover any property, estate, money or effects of such prisoner detained after an order made by the said Court for the delivery thereof, and demand made thereupon.

58.

Power of Insolvent Debtor's Court to appoint Assignees.

And be it Enacted, That it shall be lawful for the said Court for the Relief of Insolvent Debtors at any time after the making any such vesting order as aforesaid as to the same Court shall seem expedient, to appoint any proper person or persons to be assignee or assignees of the estate and effects of such prisoner for the purposes of this Act; and when such assignee or assignees shall have signified to the said Court his or their acceptance of the said appointment, the estate, effects, rights and powers of such prisoner vested in such Provisional Assignee as aforesaid shall immediately, by virtue of such appointment, and without any conveyance or assignment, vest in the said assignee or assignees in trust for the benefit of the creditors of such prisoner, in respect of or in proportion to their respective debts, according to the provisions of this Act; and every such appointment shall after such acceptance thereof, be entered of record of the said Court, and such notice thereof shall be published as the said Court shall direct; and every person so appointed assignee shall be deemed to be an officer of the said Court, and shall be liable as such to the control thereof: Provided always, That it shall be lawful for the said Court to direct any fee or remuneration for the performance of duties in getting in and distributing the estate of any insolvent debtor, whether by any assignee or by the Provisional Assignee, in case of such

such distribution being effected without the appointment of any other assignee, which shall not exceed the rate of Five per centum on the sum received as produce of such estate.

And be it Enacted, That a copy of any order under this Act vesting the estate and effects of any prisoner in the Provisional Assignee of the said Court, or of the appointment under the provision last hereinbefore contained of an assignee or assignees of such estate and effects, such copy being made upon parchment, and purporting to have the certificate of the Provisional Assignee of the said Court or his deputy appointed for that purpose endorsed thereon, and to be sealed with the seal of the said Court, shall in all Courts and places, and without further proof, be recognized and received as sufficient evidence of such order and appointment respectively having been made, and of the title of the Provisional Assignee, and of such other assignee or assignees respectively under the same: Provided always, That where according to any laws now in force any conveyance or assignment of any real or personal property of an insolvent debtor would be required to be registered, enrolled or recorded in any Registry Office in England, Wales or Ireland, or in any Registry Office, Court or other place in Scotland, or any of the dominions, plantations or colonies belonging to Her Majesty, then and in every such case such certified copy as hereinbefore is described of such order under this Act, vesting the estate and effects of any prisoner in the Provisional Assignee of the said Insolvent Debtors' Court, and a like certified copy of the appointment of an assignee or assignees under this Act (if any such appointment shall have been made), shall be registered in the Registry Office, Court or place wherein such conveyance or assignment as last aforesaid would require to be registered, enrolled or recorded; and the registry hereby directed shall have the like effect to all intents and purposes as the registry, enrolment or recording of such conveyance or assignment as last aforesaid would have had; and the title of any purchaser of any such property as last aforesaid for valuable consideration, without notice of any such order or appointment as aforesaid, who shall have duly registered, enrolled or recorded his purchase-deed previously to the registry hereby directed, shall not be invalidated by reason of such order as aforesaid, or the appointment of an assignee or assignees as aforesaid, or the vesting of such property in him or them consequent thereupon respectively, unless a certified copy of such orders, and a certified copy of such appointment (if any) shall be registered as aforesaid within the times following; (that is to say) as regards the United Kingdom of Great Britain and Ireland, within Two Months after the date of such order and appointment respectively, and as regards all other places within Twelve Months from the date thereof respectively.

59.
Certified Copy
of Order and
Appointment
to be evi-
denced.

Provision for
Registry.

60.
Sale of Estate
and Effects to
be made im-
mediately.

Creditors to
meet Thirty
Days before
sale of real
Estate.

Meeting to be
advertised.

And be it Enacted, That the assignee or assignees of the estate and effects of any such prisoner shall with all convenient speed after his or their appointment use his or their best endeavours to receive and get to the estate and effects of such prisoner, and shall with all convenient speed make sale of all such estate and effects; and if such prisoner shall be interested in or entitled to any real estate, either in possession, reversion or expectancy, such real estate within the space of Six Months after the appointment of such assignee or assignees, or within such other time as the said Court shall direct, shall be sold by public auction in such manner and at such place or places as shall Thirty Days before any such sale be approved in writing under their hands by the major part in value of the creditors of such prisoner entitled to the benefit thereof, who shall meet together on notice of such meeting, published *Fourteen* Days previous thereto in the Dublin Gazette, and also in some daily newspaper printed and published in Dublin, if the prisoner before his or her going to prison resided in the city or county of Dublin; and if such prisoner resided elsewhere within the United Kingdom, then in some printed newspaper which shall be generally circulated in or near the place where such prisoner resided at the time aforesaid.

61.
Discretion in
Court as to
the disposal of
Property in
various cases.

AND whereas persons whose estates may by an order under this Act have been vested in the said Provisional Assignee may be entitled to annuities for their own lives, or other uncertain interests, or to such reversionary or contingent interests, or to property under such circumstances that the immediate sale thereof for payment of their debts may be very prejudicial to them, and deprive them of the means of subsistence which they might otherwise have after payment of their debts, and it may be proper in some cases to authorize the raising of money by way of mortgage for payment of the debts or part of the debts of such person, instead of selling the property of such person for that purpose; BE it Enacted, That in all such cases it shall be lawful for the said Court to take into consideration all circumstances affecting the property of any such person; and if it shall appear to the said Court that it would be reasonable to make any special order touching the same, it shall be lawful for the said Court so to do, and to direct that such property as it may be expedient not to sell, or not to sell immediately, according to the provisions of this Act, shall not be so sold, and from time to time to order and direct in what manner such property shall be managed for the benefit of the creditors of such person, until the same can be properly sold, or until payment of all such creditors, according to the provisions of this Act shall have been made, and to make such orders touching the sale or disposition of such property as to the said Court shall seem reasonable, considering the rights of the creditors of such person to payment of their demands, and the future benefit of such person after payment of his debts, and upon such

terms

terms and conditions with respect to the allowance of interest, on debts not bearing interest or other circumstances as to the said Court shall seem just; and if it shall appear to the said Court that the debts of such person can be discharged by means of money raised by way of mortgage on any property of such person, instead of raising the same by sale, it shall be lawful for the said Court so to order, and to give all necessary directions for such purpose, and generally to direct all things which may be proper for the discharge of the debts of such person in such manner as may be most consistent with the interests of such person in any surplus of his or her effects after payment of such debts.

Property may be mortgaged if more beneficial.

62.

Assignees may exercise Powers which the Insolvent might have exercised for his own benefit.

And be it Enacted, That all powers vested in any such prisoner whose estate shall by any order under this Act have been vested in the Provisional Assignee, which such prisoner might legally execute for his own benefit (except the right of nomination to any vacant ecclesiastical benefice), shall be and are hereby vested in the assignee or assignees of the real and personal estate of such prisoner by virtue of this Act, to be by such assignee or assignees executed for the benefit of all and every the creditors of such prisoner under this Act, in such manner as such prisoner might have executed the same.

63.

Where Lease accepted by Assignees, the Insolvent not liable for the Rent.

And be it Enacted, That in all cases in which any such prisoner shall be entitled to any lease or agreement for a lease, and his assignee or assignees shall accept the same, and the benefit thereof as part of such prisoner's estate and effects, the said prisoner shall not be or be deemed to be liable to pay any subsequent rent to which his discharge adjudicated according to this Act may not apply, nor be in any manner sued after such acceptance, in respect or by reason of any subsequent non-observance or non-performance of the conditions, covenants or agreements therein contained: Provided always, That in all such cases as aforesaid it shall be lawful for the lessor or person agreeing to make such lease, his heirs, executors, administrators or assigns, if the said assignee or assignees, or the said Provisional Assignee, if no other assignee has been appointed, shall refuse to accept such lease or agreement for a lease, or shall decline upon his or their being required so to do, to determine whether he or they will or will not accept such lease or agreement for a lease, to apply to the said Court, praying that he or they may either so accept the same, or deliver up such lease or agreement for a lease, and the possession of the premises demised or intended to be demised; and the said Court shall thereupon make such order as in all the circumstances of the case shall seem meet and just, and such order shall be binding on all parties.

Assignees not determining whether to accept the Lease, the Lessor may apply to the Court.

64.

Assignees may sue in their own Name;

And be it Enacted, That it shall be lawful for the assignee or assignees of any such prisoner, and such assignee or assignees in and

may make
Composition
for Debts.

May submit
Differences to
Arbitration.

Provide for
consent of
Creditors to
Compositions
and Arbitra-
tions.

are hereby empowered to see from time to time as there may be occasion, in his or their own name or names, for the recovery, obtaining and enforcing of any estate, effects or rights of such prisoner, but in trust for the benefit of the creditors of such prisoner, according to the provisions of this Act, and to give such discharge and discharges to any person or persons who shall be respectively indebted to such prisoner as may be requisite, and to make compositions with any debtors or accountants to such prisoner where the same shall appear necessary, and to take such reasonable part of any such debts as can upon such composition be gotten in full discharge of such debts and accounts, and to submit to arbitration any difference or dispute between such assignee or assignees, and any person or persons for or on account, or by reason of any matter, cause or thing relating to the estate and effects of such prisoner: Provided nevertheless, That no such composition or submission to arbitration shall be made, nor any suit in equity be commenced by any such assignee or assignees without the consent in writing of the major part in value of the creditors of such prisoner, who shall meet together pursuant to a notice of such meeting to be published at least Fourteen Days before such meeting in the Dublin Gazette, and also in some newspaper most usually circulated in the neighbourhood of the place where such prisoner had his or her last usual residence before his or her imprisonment as aforesaid, nor without the approbation of the said Court.

65.

Creditors to
vote according
to Balance due
to them, an
account fairly
stated.

And be it Enacted, That all matters wherein creditors shall vote or wherein the assent or dissent of creditors shall be exercised in pursuance of or in carrying into effect this Act, every creditor shall be accounted such in respect of such amount only as, upon an account fairly stated between the parties, exclusive of the value of mortgaged property, judgments or other such available securities and liens with respect to which the creditor entitled to the benefit thereof shall not have made and filed an election under the provisions of this Act, shall appear to be the balance due; and that all disputes arising in such matters concerning any such amount shall, upon application duly made in that behalf, be examined into by the said Court, who shall have power to determine the same, or if it seem fit to refer the examination thereof to an officer of the said Court or examiner: Provided always, That the amount in respect of which any such creditor shall vote in any such matter shall not be conclusive of the amount of his or her debt for any ulterior purposes in pursuance of the provisions of this Act.

66.

Suits not to
be abated by
Death or re-
moval of
Assignees.

And be it Enacted, That whenever any such assignee or assignees shall die or be removed, or a new assignee or assignees shall be appointed in pursuance of the provisions of this Act, no action at law or suit in equity shall be thereby abated; but the Court in which any action

action or suit is depending may, upon the suggestion of such death or removal and new appointment, allow the name or names of the surviving or new assignee or assignees to be substituted in the place of the former; and such action or suit shall be prosecuted in the name or names of said surviving or new assignee or assignees, in the same manner as if he or they had originally commenced the same.

And be it Enacted, That if any such prisoner shall, at the time of filing such petition as aforesaid, whether such petition shall have been preferred by himself or by any such creditor as aforesaid, or at any time before such prisoner shall have become entitled to his final discharge according to this Act, have any Government stocks, funds or annuities, or any of the stock of any public company, either in England, Scotland or Ireland, standing in his own name, in his own right, and for his own benefit, it shall be lawful for the said Court for the Relief of Insolvent Debtors, whenever it shall seem fit so to do to order all persons whose act or consent is thereto necessary, to transfer the same into the name of such assignee or assignees as aforesaid; and all such persons whose act or consent is so necessary as aforesaid are hereby indemnified for all things done or permitted, pursuant to such order.

67.

Where the Prisoner is beneficially entitled to stock, the Court may order a Transfer.

And be it Enacted, That nothing in this Act contained shall extend to entitle the assignee or assignees of the estate and effects of any such prisoner, being a beneficed Clergyman or Curate, to the income of such benefice or curacy for the purposes of this Act: Provided always, That it shall be lawful for such assignee or assignees to apply for and obtain a sequestration of the profits of any such benefice for the payment of the debts of such prisoner; and the order appointing an assignee or assignees of such prisoner, in pursuance of this Act, shall be a sufficient warrant for the granting of such sequestration without any writ or other proceedings to authorize the same; and such sequestration shall accordingly be issued as the same might have been issued upon any writ of *levari facias*, founded upon any judgment against such prisoner.

68.

Assignees' Power not to extend to the Income of a Benefice, &c.

Sequestration of Profit of Benefice may be obtained.

And be it Enacted, That nothing in this Act contained shall extend to entitle the assignee or assignees of the estate and effects of any such prisoner being or having been an officer of the army or navy, or an officer or clerk, or otherwise employed or engaged in the service of Her Majesty in the Customs or Excise, or any civil office or other public department whatsoever, or being or having been in the naval or military service of the East India Company, or an officer or clerk or otherwise employed or engaged in the service of the Court of Directors of the said Company, or being otherwise in the enjoyment of any pension whatever under any department of Her Majesty's

69.

Assignees' Power not to extend to the Pay or Pension of naval, military or civil Officers.

550.

E

Government,

Portion of Pay or Pension may be obtained on application.

Government, or from the said Court of Directors, to the pay, half-pay, salary, emoluments or pension of any such prisoner for the purposes of this Act : Provided always, That it shall be lawful for the said Court to order such portion of the pay, half-pay, salary, emoluments or pension of any such prisoner, as on communication from the said Court to the Secretary-at-War, or the Lords Commissioners of the Admiralty, or the Commissioners of the Customs or Excise, or the chief officer of the department to which such prisoner may belong or have belonged, or under which such pay, half-pay, salary, emoluments or pension may be enjoyed by such prisoner, or the said Court of Directors, he or they may respectively under his or their hands, or under the hand of his or their Chief Secretary or other chief officer for the time being, consent to in writing to be paid to such assignee or assignees, in order that the same may be applied in payment of the debts of such prisoner ; and such order and consent being lodged in the office of Her Majesty's Paymaster-General, or of the Secretary of the said Court of Directors, or of any other officer or person appointed to pay or paying any such pay, half-pay, salary, emoluments or pension, such portion of the said pay, half-pay, salary, emoluments or pension as shall be specified in such order and consent, shall be paid to the said assignee or assignees until the said Court shall make order to the contrary.

70.
Goods in possession of Prisoner, whereof he was reputed Owner, to be deemed his Property.

No Assignment of Vessels under 3 & 4 Wm. 4, c. 65, to be affected.

And be it Enacted, That if any such prisoner shall at the time of his arrest, or other commencement of his imprisonment, by the consent and permission of the true owner thereof, have in his possession, order or disposition any goods or chattels whereof such prisoner was reputed owner, or whereof he had taken upon him the sale, alteration or disposition as owner, the same shall be deemed to be the property of such prisoner so as to become vested in the Provisional Assignee of the said Court, by the order made in pursuance of this Act : Provided, That no transfer or assignment of any ship or vessel or any share thereof, made as a security for any debt or debts either by way of mortgage or assignment, duly registered according to the provisions of an Act made in the session of Parliament held in the third and fourth years of the reign of his late Majesty King WILLIAM the Fourth, intitled, " An Act for the Registering of British Vessels," shall be invalidated or affected by reason of such possession, order or disposition of the same as aforesaid.

71.
Distress not to be available for more than One Year's Rent.

And be it Enacted, That no distress or distresses for rent made and levied after the arrest or other commencement of the imprisonment of any person whose estate shall by any such order as aforesaid have been vested in the Provisional Assignee upon the goods or effects of any such person, shall be available for more than One Year's rent accrued prior to the making of such order, but that the landlord or party

party to whom the rent shall be due shall and may be a creditor for the overplus of the rent due, and for which the distress shall not be available, and entitled to all the provisions made for creditors by this Act.

- 5 And be it Enacted, That if any such prisoner shall before or after his or her imprisonment, being in insolvent circumstances, voluntarily convey, assign, transfer, charge, deliver or make over any estate, real or personal security for money, bond, bill, note, money, property, goods or effects whatsoever to any creditor or creditors or to any person or persons in trust for or to or for the use, benefit or advantage of any creditor or creditors, every such conveyance, assignment, transfer, charge, delivery, and making over shall be deemed and is hereby declared to be fraudulent and void as against the Provisional or other assignee or assignees of such prisoner appointed under this Act:
- 10
- 15 Provided always, That no such conveyance, assignment, transfer, charge, delivery or making over shall be so deemed fraudulent and void, unless made within Three Months before the commencement of such imprisonment, or with the view or intention by the party so conveying, assigning, transferring, charging, delivering or making over, of petitioning the said Court for his discharge from custody under this Act.
- 20

72.
Voluntary Preference fraudulent and void as against Assignees.

- And be it Enacted, That in all cases where any prisoner whose estate shall have been vested in the said Provisional Assignee under this Act, shall have executed any warrant of attorney to confess judgment, or shall have given any cognovit actionem or bill of sale, whether for a valuable consideration or otherwise, no person shall after the commencement of the imprisonment of such prisoner avail himself or herself of any execution issued or to be issued upon any judgment obtained or to be obtained upon such warrant of attorney or cognovit actionem, or of such bill of sale, either by seizure and sale of the property of such prisoner or any part thereof, or by sale of such property theretofore seized, or any part thereof, but that any person or persons to whom any sum or sums of money shall be due in respect of any such warrant of attorney or cognovit actionem, or of such bill of sale, shall and may be a creditor or creditors for the same under this Act.
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- 30
- 35

73.
Warrant of Attorney and Cognovit Actionem not to be availed upon against Goods of Insolvent after his Imprisonment.

- And be it Enacted, That the assignee or assignees of any such prisoner, at the end of Three Months at the farthest, from the time of his appointment, or sooner if the said Court shall direct, and so from time to time as occasion shall require, or the said Court shall direct, shall make up an account of such prisoner's estate, and make oath in writing before the Chief Clerk of the said Court, or before any other person before whom affidavits are by this Act directed to be sworn ;
- 40

74.
Assignee to file Accounts.

Debts to be
ascertained
and Dividend
made.

How Dividend
to be made.

Court may
examine into
disputed
Claims

and that such account contains a fair, just and particular account of the estate and effects of such prisoner got in by or for such assignee, and of all payments necessarily made or deducted therefrom, and of all expenses sought to be allowed in respect thereof up to the time of filing such account, or to some ulterior time if need be; which account so sworn, together with a minute concerning the probable assets of the estate (if any), shall be filed with the proper officer of the said Court; and if there shall appear to be in the hands of such assignee or assignees any balance wherewith a dividend may be made, proceedings shall be had forthwith under the direction of the said Court for making such dividend; and also, when it shall appear necessary, for correcting and ascertaining the lists of creditors entitled to receive the same; and notice of any meeting ordered to be held for such ascertaining of debts, or for declaring dividend thereupon, or for both purposes, shall be given for such time and place, and in such manner as the said Court shall at any time or in any case direct; and in case such dividend shall be made before adjudication shall have been made with respect to such prisoner as hereinafter provided, the same shall be made amongst the creditors of such prisoner, who shall prove their debts in pursuance of any order of the said Court to be made in that behalf; and in case such dividend shall be made after such adjudication, the same shall be made amongst the creditors of such prisoner whose debts shall be admitted in his or her schedule so sworn to as hereinafter directed, and amongst such other creditors (if any) who shall prove their debts in manner aforesaid, in proportion to the amount of the debts so proved, and so admitted and proved respectively, as the case may be: Provided always, That if any such prisoner, creditor or assignee shall object in whole or in part to any debt tendered to be so proved as aforesaid, or to any debt mentioned in the schedule of such prisoner, or if any person whose demand is stated in such schedule, but is not admitted therein to the extent of such demand, shall claim to be admitted as a creditor for the whole of such demand, or for more thereof than is so admitted, the said objections and claims shall, upon application duly made, be examined into by the said Court, and the said Court may, if deemed fit, refer the examination of the same to the Chief Clerk or other officer of the said Court; and the said Court and such officer to whom such reference shall have been made, shall have full power for the purpose aforesaid, to require and compel the production of all books, papers and writings which may be necessary to be produced, as well by the person claiming such debt as by such prisoner, or his or her assignee or assignees, creditor or creditors, and to examine all such persons and their witnesses upon oath, as the nature of the case may require; and to take all other measures necessary for the due investigation of such objections and claims; and the decision of the said Court or Commissioner thereupon shall be conclusive with respect to the title of any such creditor or

or creditors to his, her or their share of such dividend under the provisions of such Act: Provided always, That if in any case it shall appear expedient that the proof of any debt or debts should be required to be made at an earlier or other period than as aforesaid, it shall be lawful at any time for the said Court by such notice as may be directed in that behalf, to cause all or any of the creditors to prove their debts in such manner as the said Court or a Commissioner thereof shall require, and to decide upon such debts, and the rights to receive dividends thereupon, and to do all things requisite thereto as aforesaid.

And be it Enacted, That in case such prisoner or any of his or her creditors or the said Court shall at any time be dissatisfied with the account of any such assignee or assignees so rendered upon oath as aforesaid, and it shall appear to the said Court that the matters of such account require a fuller or further examination, or in case any such assignee or assignees shall neglect to render such account, or shall neglect to dispose of the property or collect the effects of such prisoner, or shall in any manner waste or mismanage the estate or effects of such prisoner, or neglect to make a due distribution thereof, it shall be lawful for the said Court to require such assignee or assignees to render such account on oath as is directed by this Act, if not before rendered; and for the said Court to examine or further examine any account so rendered, and to inquire into any waste, mismanagement or neglect of the estate and effects of such prisoner, and if it shall seem fit, to order that it shall be referred to the Chief Clerk or other officer of the said Court to investigate the accounts of such assignee or assignees so rendered as aforesaid, together with all matters brought forward in objection thereto, and to examine into the truth thereof, and to report thereon to the said Court; and it shall and may be lawful for the said Court or such officer upon such reference as aforesaid to require and compel the production of all books, papers and writings necessary for such purposes, and to summon all parties before him or them, and to examine all parties and their witnesses on oath, as the case may require; and the said Court shall and may take all such measures as shall be necessary for the compelling of the rendering of such account, and for the due investigation thereof, and shall have power to disallow any charge or charges in such account which it shall appear to the said Court ought not in fairness to be allowed; and to ascertain the produce of the estate and effects of any such prisoner to be divided among his or her creditors, and to direct the distribution thereof, and to take all such measures and make such orders as shall be necessary for compelling the proper disposition and distribution thereof, and to award costs against any of the parties as justice shall require; and that if it shall appear to the said Court upon any examination of such matters of account that any such assignee or assignees shall have wilfully re-

^{75.}
If Prisoner or
Creditor or
Court dissatisfied with
Assigned Account, the
Court may direct inquiry.

Court may charge Assignee with 20 per cent. on Money wilfully retained.

tained in his or their hands, or otherwise employed for his or their own benefit; any sum or sums of money part of or being the produce of such estate or effects, the said Court shall have power and authority to order such assignee or assignees to be charged in his or their accounts with the estate of such prisoner with such sum or sums of money as shall be equal to the amount of interest computed at a rate not exceeding *Twenty Pounds* per centum per annum on all sums of money appearing to the said Court to be so retained or employed by him or them for the time or times during which he or they shall have so retained or employed the same; and the said Court shall in pursuance of such order charge such assignee or assignees in their accounts with such sum or sums of money accordingly, and the decisions of the said Court upon all such matters shall be final and conclusive.

76.
Court, at request of any Creditor, to examine and examine Assignee Six Months after his Appointment, touching his Receipts and Payments, and to order Payment of Money in his hands into the Bank of Ireland.

Assignees to pay unclaimed Dividends into Court.

And be it Enacted, That the said Court for the Relief of Insolvent Debtors or any one Commissioner of the said Court shall immediately after the end of Six calendar Months next after the appointment of an assignee or assignees under this Act, at the request of any one or more creditor or creditors, summon such assignee or assignees before such Court or Commission, and examine such assignee or assignees upon oath or otherwise touching his, her or their receipts and payments, and shall thereupon order the money in the hands of such assignee or assignees to be paid into the Bank of Ireland to the credit of such matter, with the privity of the Chief Clerk of the said Court, and that such dividend be made of the estate and effects of such prisoner as the said Court may think proper; and in case any dividend or dividends shall remain in the hands of such assignee or assignees for the space of Three Months next following the declaring thereof, it shall and may be lawful to and for such Court, and such Court or any one Commissioner thereof is hereby authorized to order and direct that such unclaimed dividend or dividends shall be immediately paid into the Bank of Ireland as aforesaid; and in default of payment of such dividend or dividends by the time by the said Court, to be for that purpose limited, it shall and may be lawful to and for the said Court to order such summary remedy for the purpose of a distress and sale of the goods and chattels of such assignee or assignees in the name of such creditor as shall desire the same as to the said Court shall seem proper; and if no sufficient distress can be found, then and in such case the said Court shall be at liberty to commit the offender to the common goal or house of correction without bail or mainprize, there to remain until the said Court shall make such order to the contrary.

77.
Provisions respecting Money paid into the Bank of Ireland.

And be it Enacted, That all and every sum and sums of money which under the provisions of this Act shall be lodged in the Bank of Ireland shall be so lodged with the privity of the Chief Clerk for the Relief of Insolvent Debtors, to the credit of the matter in which the same

same shall be so lodged, and the same shall be subject to the orders of the said Court, and shall from time to time, as justice shall require, be drawn out of the said Bank by the drafts of the said Chief Clerk, drawn under and in pursuance of the orders of the said Court, authenticated by copies of such orders respectively, dated and signed by a Commissioner of the said Court, which copies shall remain, together with such drafts, in the said Bank, and that any such draft shall be void unless presented for payment within *One calendar Month* from the date of such copy of such order, and the same shall be expressed in every such order.

And be it Enacted, That in case any assignee of the estate and effects of any such prisoner so appointed as aforesaid shall be unwilling to act, or to continue to act as such assignee, or in case of the death, incapacity, disability, misconduct or absence from the realm of any such assignee, or other cause of unfitness appearing to the said Court, it shall be lawful to and for any creditor or creditors of such prisoner, his or their executors or administrators, or for such prisoner, or in case of his death, for the heirs, executors or administrators of such deceased prisoner, to apply to the said Court to appoint a new assignee or assignees with like powers and authorities as are given by this Act to the assignee or assignees hereinbefore mentioned; and that the said Court shall have power to remove such assignees, and to appoint such new assignee or assignees, and to compel any assignee who shall be removed, and the heirs, executors or administrators of any deceased assignee, to account for and deliver up to the said Court, or as the said Court shall order, all such estate and effects, books, papers, writings, deeds and other evidences relating thereto as shall remain in his or their hands to be applied for the purposes of this Act; and the decision of the said Court in the matters aforesaid shall be final and conclusive; and from and immediately after such appointment of a new assignee or assignees, and by virtue of the order of the said Court in that behalf, all the estate, effects, rights and powers of such prisoner vested in any such former assignee or assignees, shall become, and the same are hereby vested in such new assignee or assignees without any assignment or conveyance executed in that behalf; and every such removal and appointment shall be entered of record in the said Court, and such notice thereof shall be published as the said Court shall at any time direct, and proof of such removal and appointment so entered of record as aforesaid shall be received by such certified copy thereof as is hereinbefore directed to be received as proof of such order and appointment as aforesaid made in pursuance of this Act.

78.
Court may remove Assignees and appoint new Assignees.

What shall be evidence of Removal and Appointment.

79.
Court to have Power to order the Arrest and

And be it Enacted, That in case any assignee or other person shall disobey any rule or order of the said Court duly made by the said
550. R 4 Court

*Imprisonment
of Assignee or
other Person
disobeying
the Order.*

Court for enforcing the purposes and provisions of this Act, or made and entered into by the consent of such assignee or other person for carrying into effect the purposes and provisions of this Act, it shall and may be lawful for the said Court to order the person so offending to be arrested and committed as for a contempt of the said Court, to Her Majesty's prison of Kilmainham, or to the common gaol of any county, city or place where he or she shall be, or where he or she shall usually reside, there to remain without bail or mainprize until such person shall have fulfilled the duty required by this Act, or until the said Court shall make order to the contrary.

80.
Proviso.

And be it Enacted, That all enactments and provisions in this Act contained, concerning the appointment and removal of assignees and otherwise concerning assignees, and concerning debts and dividends and the management and control of the estates of insolvent debtors, shall be deemed to extend to all cases which shall or may be of record in the said Court for the Relief of Insolvent Debtors at the commencement of this Act, as well as to cases arising subsequently thereto.

81.
*Court may direct Convey-
ances by Provisional As-
signee where
no Assignee
is appointed.*

AND whereas it may often happen that some interest in lands and tenements has or may become vested in the Provisional Assignee of the said Court for the Relief of Insolvent Debtors, which appears to be of no value to creditors, but nevertheless it may be reasonable and expedient that the Provisional Assignee should make or join in making some conveyance or assignment of the same, and that the same should be done without the expense attending advertisements and meetings of creditors as hereinbefore described in certain cases; BE it therefore Enacted, That it shall be lawful for the said Court, at any time after the day gazetted for the bringing up of any prisoner, to be dealt with according to the provisions of this Act, if no person or persons other than the said Provisional Assignee shall have been appointed assignee or assignees of his estate and effects; and if it shall appear fit, upon such notice given by advertisement or otherwise to the creditors or any of them as the said Court shall in any case direct, to order the said Provisional Assignee to make or join in making any conveyance or assignment of any such interest as to the said Court may appear just and reasonable, without observing the provisions of this Act as to the sale of real property by the Provisional or other assignees of the estates of insolvent debtors.

82.
*Schedule to
be filed with
Books and
Papers.*

And he it Enacted, That every prisoner whose estate shall, by an order to be made under this Act, be vested in the Provisional Assignee of the said Court for the Relief of Insolvent Debtors (whether upon his own petition or on the petition of any such creditor as aforesaid), shall, within the space of Fourteen Days next after such order shall have been

been made, or next after notice in writing of such order having been
 made shall have been given to him in case such order shall not have
 been made on his own petition or within such further time as the said
 Court shall think reasonable, deliver into the said Court a schedule,
 containing a full and fair description of such prisoner as to his name
 or names, trade or trades, profession or professions, together with the
 last usual place of abode of such prisoner, and the place or places
 where he has resided during the time when his debts were contracted,
 and also a full and true description of all debts due or growing due
 from such prisoner at the time of making such order, and of all and
 every person and persons to whom such prisoner shall be indebted,
 or who, to his knowledge or belief, shall claim to be his creditors,
 together with the nature and amount of such debts and claims respec-
 tively, distinguishing such as shall be admitted from such as shall be
 disputed by such prisoner; and also a full, true and perfect account
 of all the estate and effects of such prisoner, real and personal, in
 possession, reversion, remainder or expectancy, and also of all places
 of benefit or advantage held by such prisoner, whether the emolu-
 ments of the same arise from fixed salaries, or from fees or otherwise;
 and also of all pensions or allowances of the said prisoner, in possession
 or reversion, or held by any other person or persons for or on behalf
 of the said prisoner, or of and from which the said prisoner derives or
 may derive any manner of benefit or advantage; and also of all rights
 and powers of any nature and kind whatsoever, which such prisoner
 or any other person or persons in trust for such prisoner, or for his
 use, benefit or advantage in any manner whatsoever, shall be seized or
 possessed of, or interested in or entitled unto, or which such prisoner
 or any other person or persons in trust for him or for his benefit, shall
 have any power to dispose of, charge or exercise for the benefit or
 advantage of such prisoner, together with a full, true and perfect
 account of all the debts at the time of making such order due or growing
 due to such prisoner, or to any person or persons in trust for him or
 for his benefit or advantage, either solely or jointly with any other
 person or persons, and the names and places of abode of the several
 persons from whom such debts shall be due or growing due, and of
 the witnesses who can prove such debts so far as such prisoner can
 set forth the same; and the said schedule shall also contain a balance
 sheet of so much of the receipts and expenditures of such prisoner,
 and of the items composing the same, as shall be at any time required
 by the said Court in that behalf, and also shall fully and truly describe
 the wearing apparel, bedding and other necessities of such prisoner,
 and his or her family, and the working tools and implements of such
 prisoner, not exceeding in the whole the value of *Fifteen Pounds*,
 which may be excepted by such prisoner from the operation of this
 Act, together with the values of such excepted articles respectively;

*After Order
 made, the
 Prisoner to
 deliver in a
 Schedule of
 Debts, Pro-
 perty, &c.*

and the said schedule shall be subscribed by such prisoner, and shall forthwith be filed in the said Court, together with all books, papers, deeds and writings in any way relating to such prisoner's estate or effects in his or her possession, or under his or her custody or control :
 Provided always, That if any prisoner, whose estate shall by any such order of the said Court be vested in such Provisional Assignee on the petition of any such creditor as aforesaid, shall neglect or refuse to deliver into the said Court such schedule as aforesaid within such time as may be directed by any order of the said Court in that behalf, it shall be lawful for such Court by warrant to commit such prisoner so offending to the common gaol of any county or place, there to remain without bail or mainprize until such time as he or she shall submit himself or herself to such Court, and deliver into such Court such schedule as aforesaid.

83.

Court to appoint time and place for Prisoner to be brought up.

And be it Enacted, That the said Court for the Relief of Insolvent Debtors shall forthwith, after such schedule shall have been filed as aforesaid in the said Court by any such prisoner, appoint a time and place for such prisoner to be brought up before such Court or a Commissioner thereof on his circuit, to be dealt with according to the provisions of this Act, and the time so appointed shall in no case be more than Four calendar Months after the date of such appointment; and where such prisoner shall be in any gaol within the county of Dublin, or the county of the city of Dublin, the said Court shall order such prisoner to be brought before the said Court; and where any such prisoner shall be in any other gaol in Ireland, except in the county of Dublin, or county of the city of Dublin, the said Court shall order such prisoner to be brought before one of the Commissioners of the said Court, proceeding on his circuit at the assize town for the county, or county of a city or town wherein such gaol shall be situate, as may be directed by the order of the said Court in that behalf; and the expense of conveying such prisoner to any such assize town in every case where the gaol in which such prisoner shall be confined shall not be situate within such assize town, not exceeding One Penny a mile, shall be paid to the keeper or gaoler or officer who shall bring such prisoner to such assize town in obedience to such rule or order, out of the estate or effects of such prisoner, if the same shall be sufficient to pay such expense, and if not, then such expense shall be paid by the treasurer of the county, county of a city or county of a town in which such prisoner shall be imprisoned, as the same shall be directed or ordered by the Commissioner of the said Court before whom such prisoner shall be brought; and the grand jury of such county, county of a city or county of a town, is hereby empowered and required to present the amount thereof at the assize next ensuing the day mentioned in such rule or order.

Manner of proceeding by Commissioner on Circuit.

And

And be it Enacted, That in case such Commissioner, upon attending at any assize town for the purposes of this Act, shall see cause to appoint for the appearance of such prisoner before him, in any place within the precincts thereof, other than the Court-house or other place which may have been appointed by the previous order of the said Court in that behalf, it shall and may be lawful for such Commissioner, by an order to be made in that behalf, to appoint such other place within the precincts of said assize town for such prisoner to be brought up before such Commissioner; and every such new order shall be as valid to all intents and purposes as if the place thereby appointed for the appearance of such prisoner before such Commissioner, had been the place appointed for that purpose in the original order of the said Court in that behalf.

And be it Enacted, That the Sheriff (or his Deputy) of every county or county of a city or county of a town, wherein such Commissioner on circuit shall hold his sittings for the purposes of this Act, shall from time to time provide that the Court-house or other place appointed for such sitting shall be duly prepared and made ready for that purpose; and that such Sheriff (or his Deputy) shall from time to time attend such Commissioner during such sitting, and the necessary expense of preparing such Court-house or other place shall be paid by the treasurer of such county, county of a city or county of a town, and that the grand jury of such county, county of a city or county of a town are hereby empowered and required to present the amount of such expenses at the assizes next ensuing the time of every such sitting.

And be it Enacted, That the said Court for the Relief of Insolvent Debtors shall cause notice of the making every such vesting order as aforesaid, and the filing of every such schedule, and of the time and place so as aforesaid appointed for such prisoner to be brought up, to be given by such means as the said Court shall direct, to the creditor or creditors at whose suit any such prisoner shall be detained in custody, or the attorney or agent of such creditor or creditors, and to the other creditors named in the schedule of such prisoner and resident within the United Kingdom, and whose debt shall amount to the sum of *Five Pounds*, and to be inserted in the Dublin Gazette, and also, if the said Court shall think fit, in the Edinburgh and London Gazettes, or either of them, and also in such other newspaper or newspapers as the said Court shall direct.

Notice to be given to Creditors and advertised.

And be it Enacted, That upon such prisoner being brought up as aforesaid, the said Court or Commissioner shall examine into the schedule of every such prisoner so brought before the said Court or Commissioner, upon the oath of such prisoner and of such parties and other witnesses as the said Court or Commissioner shall think fit to examine

At the time of hearing the Schedule to be examined.

Creditor may
oppose Pri-
soner's Dis-
charge.

Hearing may
be adjourned.

thereupon; and in case such notice as the said Court shall direct shall have been given by any creditor of his intention to oppose such prisoner's discharge, it shall be lawful both for the said creditor and any other of the creditors of such prisoner, and notwithstanding such creditor or creditors may have petitioned for and obtained such vesting order as aforesaid to oppose such prisoner's discharge, and for that purpose to put such questions to such prisoner, and examine such witnesses as the said Court or Commissioner shall think fit touching the matters contained in such schedule, and touching such other matters as the said Court or Commissioner shall be of opinion that it may be fit and proper to inquire into in order to the due execution of this Act; but no creditor shall examine or oppose the discharge of such prisoner until he shall make oath or affidavit of his debt, or otherwise give satisfactory proof of his right to oppose such prisoner's discharge, if required so to do by such prisoner; and that in case the said Court or Commissioner shall entertain any doubt touching any matter alleged against such prisoner at such hearing to prevent his or her discharge, or otherwise touching the schedule or the examination of such prisoner, or it shall appear that amendment is necessary to be made of such schedule, or in case such prisoner shall refuse to be sworn or shall not answer upon oath to the satisfaction of the said Court or Commissioner, it shall be lawful for the said Court or Commissioner to adjourn the hearing and examination of such prisoner and of witnesses thereupon to some future sitting of the said Court or Commissioner, or to some future circuit to be made by one of the said Commissioners, or (where such hearing shall be before a Commissioner on circuit) to some future sitting of the said Court in Dublin; and in every such case such prisoner shall, upon such adjournment, remain in custody, and shall and may be again brought up, and such hearing and examination be further proceeded in as often as to the said Court or Commissioner shall seem fit: Provided always, That when any such hearing shall be adjourned by the said Court generally, or by such Commissioner to some future circuit, or to some future sitting of the said Court in Dublin as aforesaid, the said Court shall and may upon the application of such prisoner, to be made within such time as the said Court shall direct, order the said prisoner to be brought up for hearing accordingly, and such notice thereof shall be given, and to such parties as the said Court or Commissioner shall direct.

88.
Affidavits
may be re-
ceived in op-
position to
Prisoner's Dis-
charge in cer-
tain cases.

Provided always, and be it Enacted, That where any prisoner whose usual place of abode at or lately before his or her imprisonment was otherwise than in the county of Dublin or county of the city of Dublin aforesaid, shall be so brought before the said Court for the Relief of Insolvent Debtors, it shall be lawful for the said Court to receive the affidavits of any creditor or creditors, or other person or persons not resident within the county of Dublin or county of the city

city of Dublin aforesaid, in opposition to the discharge of such prisoner under this Act; and also if such Court shall think fit to permit interrogatories to be filed for the examination or cross-examination of any person making or joining in such affidavits, and to adjourn the hearing and examination of such prisoner until such interrogatories shall be fully answered to the satisfaction of the said Court; and where any prisoner shall be brought before any Commissioner of the said Court on his circuit, and the usual place of abode of such prisoner at or lately before his or her imprisonment shall have been other than in the county where such prisoner shall be brought up, it shall be lawful for such Commissioner to receive the affidavits of any creditor or creditors, or other person or persons not resident within the county where such prisoner shall be brought up in opposition to the discharge of such prisoner under this Act; and also if such Commissioner shall think fit to permit interrogatories to be filed for the examination or cross-examination of any person making or joining in such affidavits, and to adjourn the hearing and examination of such prisoner until such interrogatories shall be fully answered to the satisfaction of the said Commissioner; and that it shall be lawful for the said Court to summon and compel to attend before it the wife of any such prisoner (in like manner as the said Court is hereinbefore empowered to compel the attendance of other witnesses), and to examine her for the finding out and discovery of the estate, goods and chattels of such prisoner, concealed, kept or disposed of by such wife in her own person, or by her own act, or by any other person; and she shall incur such danger or penalty for not coming before the said Court, or for refusing to be sworn or examined, or for not fully answering to the satisfaction of the said Court, as would be incurred by any other person offending in like manner before the said Court or one of the Commissioners thereof.

30 Provided always, and be it Enacted, That at such hearing or adjourned hearing it shall be lawful for the said Court, if it shall appear fit, to order that it shall be referred to the Chief Clerk, or other officer of the said Court, to investigate the accounts of such prisoner, and to examine into the truth of his schedule, and to report thereon to the said Court or Commissioner; and that the said Court may at such hearing proceed on the other matters in opposition to the discharge of such prisoner, or may, if it shall appear just and reasonable so to do, forthwith adjourn the hearing thereof until such officer shall have made his report; and that upon such reference being made as aforesaid, it shall be lawful for such officer to order the attendance of such prisoner as often as such officer shall think fit, and the prisoner mentioned in such order shall be accordingly carried before such officer, for which such order shall be a sufficient warrant; and such officer shall and may under such reference administer oaths, and examine all witnesses and parties upon their oaths

89.
Schedule and
Prisoner's
Accounts may
be referred to
an Officer of
the Court, or
an Examiner,
who may
order Prisoner to
attend.

Officer and
Examiner
may administer
the Oaths.

Court may order Expenses of Reference to be paid out of Prisoner's Estate.

touching all matters relating thereto; and that in all cases where such reference shall have been made as aforesaid, it shall be lawful for the said Court or Commissioner, if just cause shall appear, to order all the fees and expenses of such reference paid by any creditor or creditors to be repaid to him, her or them out of the first money received by the provisional or other assignee or assignees of such prisoner from or by his estate or effects.

*90.
Court, &c.
may adjudge a Prisoner to be discharged from Custody, and entitled to the benefit of this Act.*

And be it Enacted, That after such examination of any such prisoner as heretofore directed, it shall be lawful at such hearing or adjourned hearing as aforesaid, for the said Court or Commissioner, upon such prisoner's swearing to the truth of his schedule, and executing such warrant of attorney as is hereinafter directed, to adjudge that such prisoner shall be discharged from custody, and entitled to the benefit of this Act, at such time as the said Court or Commissioner shall direct in pursuance of the provisions hereinafter contained in that behalf as to the several debts and sums of money due or claimed to be due at the time of making such vesting order as aforesaid, from such prisoner to the several persons named in his schedule as creditors, or claiming to be creditors for the same respectively, or for which such persons shall have given credit to such prisoner before the time of making such vesting order as aforesaid, and which were not then payable; and as to the future claims of any surety or bail for such prisoner named in his or her schedule as a contingent creditor of such prisoner; and as to the claims of all other persons not known to such prisoner at the time of such adjudication who may be indorsees or holders of any negotiable security set forth in such schedule so sworn to as aforesaid.

*91.
Court may adjudge Discharge, &c., to be forthwith, or not later than Six Months from the filing of the Petition.*

And be it Enacted, That in all cases where no cause shall appear to the contrary, it shall be lawful for the said Court or Commissioner, according as it shall seem fit, to adjudge that such prisoner shall be so discharged, and so entitled as aforesaid forthwith, or so soon as such prisoner shall have been in custody at the suit of one or more of the persons as to whose debts and claims such discharge is so adjudicated, for such period or periods not exceeding Six Months in the whole, as the said Court or Commissioner shall direct, to be computed from the making of such vesting order as aforesaid.

*92.
In certain cases, Discharge, &c., to be at any period not later than Three Years from petitioning.*

And be it Enacted, That in case it shall appear to the said Court or Commissioner that such prisoner has fraudulently, with intent to conceal the state of his affairs, or to defeat the objects of this Act, destroyed, or otherwise wilfully prevented or purposely withheld the production of any books, papers or writings relating to such of his affairs as are subject to investigation under this Act, or kept or caused to be kept false books or made false entries in, or withheld entries from

or

or wilfully altered or falsified any such books, papers or writings, or that such prisoner has fraudulently, with intent of diminishing the sum to be divided among his creditors, or of giving any undue preference to any of the said creditors, discharged or concealed any debt due to or from the said prisoner, or made away with, charged, mortgaged or concealed any part of his property of what kind soever, either before or after the commencement of his or her imprisonment, then it shall be lawful for the said Court or Commissioner to adjudge that such prisoner shall be so discharged, and so entitled as aforesaid, so soon as he shall have been in custody at the suit of some one or more of the persons as to whose debts and claims such discharge is so adjudicated for such period or periods not exceeding Three Years in the whole, as the said Court or Commissioner shall direct to be computed as aforesaid.

- 15 And be it Enacted, That in case it shall appear to the said Court or Commissioner that such prisoner shall have contracted any of his or her debts fraudulently or by means of a breach of trust, or by means of false pretences, or without having had any reasonable or probable expectation at the time when contracted of paying the same, or shall have fraudulently or by means of false pretences obtained the forbearance of any of his debts by any of his creditors, or shall have put any of his creditors to any unnecessary expense by any vexatious or frivolous defence, or delay to any suit for recovering any debt or sum of money due from such prisoner, or shall be indebted for damages recovered in any action for criminal conversation with the wife, or for seducing the daughter or servant of the plaintiff in such action, or for breach of promise of marriage made to the plaintiff in such action, or for damages recovered in any action for a malicious prosecution, or for a libel, or for slander, or in any other action for malicious injury done to the plaintiff therein, or in any action of tort or trespass to the person or property of the plaintiff therein, where it shall appear to the satisfaction of the said Court that the injury complained of was malicious, then it shall be lawful for such Court or Commissioner to adjudge that such prisoner shall be discharged, and so entitled as aforesaid forthwith, except as to such debt or debts, sum or sums of money, or damages as above mentioned; and as to such debt or debts, sum or sums of money, or damages, to adjudge that such prisoner shall be so discharged and so entitled as aforesaid, so soon as he shall have been in custody at the suit of the person or persons who shall be creditor or creditors for the same respectively for a period or periods not exceeding Two Years in the whole, as the said Court or Commissioner shall direct to be computed as aforesaid.

93.
In other cases, the Discharge, &c., to be at any period not later than Two Years from petitioning.

And be it Enacted, That the discharge of any prisoner so adjudicated as aforesaid, shall and may extend to all process issuing from
550. F 4 any

94.
Discharge may extend to Process

for Contempt
or non-pay-
ment of
Money ;
and to Costs
incurred by
Creditor, but
subject to
Taxation.

any Court for any contempt of any Court, Ecclesiastical or Civil, for non-payment of money or of costs, or expenses in any Court, Ecclesiastical or Civil; and that in such case the said discharge shall be deemed to extend also to all costs which such prisoner would be liable to pay in consequence, or by reason of such contempt or on purging the same; and that every discharge so adjudicated as aforesaid, as to any debt or damages of any creditor of such prisoner, shall be deemed to extend also to all costs incurred by such creditor before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoner for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expenses as aforesaid, any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefit of all the provisions made for creditors by this Act, subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is herein provided in respect of all claims to a dividend of such prisoner's estate and effects.

95.
Discharge
may extend
to sums pay-
able by way
of Annuity,
&c.

And be it Enacted, That the discharge of any such prisoner so adjudicated as aforesaid, shall and may extend to any sum or sums of money which shall be payable by way of annuity or otherwise, at any future time or times by virtue of any bond, covenant or other securities of any nature whatsoever; and that every person and persons who would be a creditor or creditors of such prisoner for such sum or sums of money, if the same were presently due, shall be admissible as a creditor or creditors of such prisoner for the value of such sum or sums of money so payable as aforesaid, which value the said Court shall, upon application at any time made in that behalf, ascertain, regard being had to the original price given for such sum or sums of money, deducting therefrom such diminution in the value thereof as shall have been caused by the lapse of time since the grant thereof, to the time of making such vesting order as aforesaid, and such creditor or creditors shall be entitled in respect of such value to the benefit of all the provisions made for creditors by this Act: Provided also, That it shall not be lawful for any person entitled to any such annuity to sue any person who may be surety for the payment of such annuity, until such annuitant shall, upon application at any time made to the said Court in that behalf, have had the said annuity valued by the said Court in manner aforesaid; and if such surety, after such valuation duly confirmed by an order of the said Court or a Commissioner thereof, pay the amount of such valuation, he shall be discharged from all claims in respect of such annuity; and if such surety shall not (before any payment of the said annuity subsequent to the making of said vesting order shall have become due) pay the amount of such valuation, he may be sued for the accruing payments or gales of such annuity

annuity until such annuitant shall have been paid or satisfied the amount of such valuation, with interest on the same at the rate of *Five Pounds per centum per annum*, from the time of the making of said order confirming such valuation; and after such payment or satisfaction, such surety shall stand in the place of such annuitant as a creditor of such prisoner to the amount in such valuation so paid or satisfied as aforesaid by such surety, and the order for the discharge of such prisoner shall be a discharge to him from all claims of such annuitant or of such surety in respect of such annuity: Provided always, That such surety shall be entitled to credit in account with such annuitant for any dividend received by such annuitant out of the estate and effects of such prisoner, before such surety shall have fully paid or satisfied the amount so proved as aforesaid: Provided also, That in case such annuity shall be charged upon or payable out of any lands, tenements or hereditaments of such prisoner, such annuitant shall not be entitled to have such annuity valued as aforesaid, or be entitled to prove on the estate of such prisoner, or to sue any such surety as aforesaid, unless such annuitant shall elect to release all such lands, tenements and hereditaments from all future or accruing gales or payments of such annuity; and thereupon the said lands, tenements and premises shall stand charged with the amount of such valuation, and be liable to the payment of said sum only, with interest at the rate of *Five Pounds per centum per annum*, until paid: Provided also, That if such surety shall as aforesaid pay or satisfy the amount of such valuation, he shall, after such payment and satisfaction, stand in the place of such annuitant as a creditor upon such lands, tenements and hereditaments to the amount of such sum so paid and satisfied, together with interest at the rate aforesaid until paid.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to prevent any mortgage, charge or lien upon any estate of such prisoner, or any part thereof made prior to the making of such vesting order as aforesaid, from taking place upon the lands, tenements or hereditaments or personal estate and effects comprised in, or charged or affected by such mortgage, charge or lien respectively, nor to prevent any statute, statute-merchant, recognizance or judgment acknowledged by or obtained against any such prisoner, prior to the making of such vesting order as aforesaid, from taking place upon the lands, tenements or real estates of such prisoner, unless in any of the said cases the creditor or creditors having such mortgage, charge, lien, statute-merchant, statute-merchant, recognizance or judgment, shall elect to take and receive any dividend under this Act in respect of such debt, and being an annuity creditor shall elect to have his annuity valued as hereinbefore mentioned; and such creditor or creditors shall cause such election to be entered on the files of the Court discharging such prisoner: Provided nevertheless, That

96.
Provide for
preventing of
Mortgages
and other
charges on
lands made
prior to vesting
Order.

on such creditor who shall not have so made and entered such election, shall be entitled to receive any dividend under this Act in respect of any debt so secured, or be admitted a creditor for the value of such security as aforesaid.

97.
Court, &c.,
may order
Prisoner to
be confined
within the
Walls of the
Prison.

And be it Enacted, That in all such cases where it shall be adjudged that any such prisoner shall be so discharged and so entitled as aforesaid at some future period, it shall be lawful for the said Court, if it shall seem fit, to direct that such prisoner shall be confined during any such period within the walls of the prison, and not within any rules or liberties thereof.

98.
Court, &c.,
may order
Costs in cer-
tain cases to
be paid to
opposing Cre-
ditors out of
the Insol-
vent's Estate.

And be it Enacted, That whenever any creditor or creditors opposing any such prisoner's discharge shall prove to the satisfaction of the said Court or Commissioner that such prisoner has done or committed any act for which upon such adjudication as aforesaid he may be liable to remain in such custody as aforesaid for a period not exceeding Three Years, to be computed as aforesaid, the said Court or Commissioner shall adjudge the taxed costs of such opposition to be paid to such opposing creditor or creditors out of the estate and effects of such prisoner by his or her assignee or assignees before any dividend made thereof; and in all other cases of opposition to a prisoner's discharge being substantiated or effectual, it shall be lawful for the said Court or Commissioner to adjudge in like manner, if it shall seem fit; and that in case it shall appear to the said Court or Commissioner that the opposition of any creditor to any such prisoner's discharge was frivolous and vexatious, it shall be lawful for the said Court or Commissioner to award such costs to such prisoner as shall appear to be just and reasonable, to be paid by the creditor or creditors making such opposition, which shall be paid accordingly.

Where oppo-
sition fri-
volous and
vexatious,
Costs may be
awarded to
Prisoner.

99.
Court or
Commissioner
may by
make Order,
pursuant to
Adjudication,
and issue
Warrant to
Gaoler.

And be it Enacted, That where, upon any prisoner being brought up before the said Court or a Commissioner thereof on his circuit, any such adjudication shall have been made as aforesaid by the said Court or Commissioner, order shall be made accordingly by the said Court or Commissioner in pursuance of such adjudication, and the said Court or Commissioner shall also issue a warrant or warrants to the gaoler accordingly, ordering the discharge of such prisoner from custody as to the detainers under which he or she shall then be confined, or which shall be lodged against him or her before he or she shall be out of custody, the same being for debts in respect of which such adjudication shall have been made; and that every such order of adjudication shall take effect as from the day on which the adjudication shall have been made in that behalf; and that every such adjudication and certificate thereof, and order thereupon, may be made, without specifying therein any such debt or debts, or sum or sums of money, or claims as afore-

Specification
of Debts, &c.,
not necessary
in order of
Adjudication.

said,

said, or naming therein any such creditor or creditors as aforesaid, excepting so far as shall be necessary in any case in order to distinguish between the creditors as to whom any such prisoner may be adjudged to be so discharged and entitled as aforesaid forthwith, and the creditors as to whom he may be adjudged to be so discharged and entitled at some future period: Provided nevertheless, That in all cases the detainer or detainers with respect to which any such prisoner shall have been adjudged to be discharged out of custody, he being then in custody thereupon, shall be specified in the warrant of the said Court or Commissioner, to be delivered to the gaoler in that behalf.

And be it Enacted, That where it shall appear to the said Court or Commissioner at any such hearing as aforesaid of any such prisoner that certain matters or things ought to be performed by or on behalf of such prisoner before he is entitled to be actually discharged from custody, but that nevertheless it is expedient not to adjourn the hearing of the case absolutely to some future occasion without the opportunity of such discharge being sooner had by doing such things as aforesaid, it shall be lawful for the said Court or Commissioner to pronounce an adjudication without their issuing the order and warrant pursuant thereto, and that such adjudication may be directed to be conditional on the performance of such matters or things as aforesaid; and that on the non-performance thereof, the hearing of such case shall stand adjourned according to the direction made in that behalf.

100.
Adjudication may be conditional in certain cases.

And be it Enacted, That in all cases where the said Court shall adjudge that such prisoner shall be so discharged and so entitled at some future period, and shall make an order of remand to that effect, such prisoner shall be subject and liable to be detained in prison under and by virtue of such order at the suit of any one or more of his or her creditors with respect to whom it shall have been so adjudged and ordered, until such period shall have arrived, notwithstanding that such prisoner may not during such period be otherwise detained or charged in custody at the suit of some one or more of such creditors; and the gaoler or keeper of the prison to which such prisoner shall be so remanded, shall and is hereby required to detain and keep such prisoner in his custody in pursuance of such remand until such period shall have arrived, for doing which the order of remand in such case shall be his sufficient warrant: Provided always, That it shall be lawful for any such creditor at any time before such period shall have arrived, to authorize and empower such gaoler or keeper to discharge such prisoner from custody at the suit of such creditor, in the same manner and by the same means as such creditor might have done if such prisoner had been arrested and detained or charged in custody at the suit of such prisoner under any civil process at his suit.

101.
Where Adjudication is a Discharge at a future period, the Prisoner may be detained or arrested, &c. till that period arrives.

102.

Court may order detaining Creditor to pay Prisoner a Sum not exceeding Four Shillings a Week.

And be it Enacted, That in all cases where such prisoner shall, upon such adjudication as aforesaid, be liable to further imprisonment at the suit of his creditor or creditors, or any or either of them, it shall be lawful at any time for the said Court, on the application of such prisoner, to order the creditor or creditors at whose suit he shall be so imprisoned to pay to such prisoner such sum or sums of money, not exceeding the rate of Four Shillings by the week in the whole, at such times and in such manner and in such proportions as the said Court shall direct; and that on failure of payment thereof, as directed by the said Court, the said Court shall order such prisoner to be forthwith discharged from custody at the suit of the creditor or creditors so failing to pay the same.

103.

Before Adjudication, Prisoner shall execute Warrant of Attorney to confess Judgment for amount of Debts in Schedule.

And be it Enacted, That before any such adjudication shall be made with respect to any such prisoner, the said Court or Commissioner shall require such prisoner to execute a warrant of attorney to authorize the entering up of a judgment against such prisoner in some one of the Superior Courts at Dublin in the name of the assignee or assignees of such prisoner, or of such Provisional Assignee, if no other assignee shall have been appointed and shall have accepted such office for the amount of the debts stated in the schedule of such prisoner so sworn to as aforesaid to be due or claimed to be due from such prisoner, or so much thereof as shall appear at the time of executing such warrant of attorney to be due and unsatisfied, and it shall not be necessary that such warrant of attorney should be executed in the presence of an attorney for such prisoner according to the provision heretofore in that behalf provided; and the order of the said Court for entering up such judgment shall be a sufficient authority to the proper officer for entering up the same, and such judgment shall have the force of a recognizance or a judgment under this Act; and if at any time it shall appear, to the satisfaction of the said Court, that such prisoner is of ability to pay such debts or any part thereof, or that he is dead, leaving assets for that purpose, the said Court may permit execution or other proceeding to be taken out upon such judgment for such sum of money as under all the circumstances of the case the said Court shall order; such sum to be distributed rateably amongst the creditors of such prisoner according to the mode hereinbefore directed in the case of a dividend made after adjudication, and such farther proceedings shall and may be had upon such judgment as may seem fit to the discretion of the said Court from time to time until the whole of the debts due to the several persons against whom such discharge shall have been obtained shall be fully paid and satisfied, together with such costs as the said Court shall think fit to award; and no scire facias shall be necessary to revive such judgment on account of any lapse of time, but execution shall at all times issue thereon

Court may permit Execution to be taken out thereupon, when Insolvent is of ability to pay, or is dead, leaving Assets.

No scire facias necessary.

thereon by virtue of the order of the said Court: Provided always, That in case any such application against any such prisoner shall appear to the said Court to be ill-founded and vexatious, it shall be lawful for the said Court not only to refuse to make any order on such application, but also to dismiss the same, with such costs against the party or parties making the same as to the said Court shall appear reasonable, and the said costs shall be paid accordingly.

If application is ill-founded and vexatious, Court may dismiss the same, with Costs.

And be it Enacted, That in case any such person shall, after he has become entitled to the benefit of this Act, by any such adjudication as aforesaid, become entitled to, or possessed of, in his own right, any stock in the public funds of this country, or other property, whether the same be in Ireland or elsewhere, and such prisoner shall have refused to convey or assign or transfer such stock or other property, or so much thereof as may be sufficient to satisfy the said judgment, then and in such case it shall be lawful for the assignee or assignees of such prisoner to apply by petition, in a summary way, setting forth the facts of the case to the said Court, and to pray that the said prisoner may be taken and committed to custody, notwithstanding any such adjudication and discharge as aforesaid; and thereupon, if upon examination by the said Court, and hearing as well the said assignee or assignees as the said prisoner in case he shall appear, or the said assignee or assignees only, in case such prisoner, due notice having been given to him, shall not appear, it shall appear to the said Court that the contents of such petition are true, then and in such case the said Court shall so declare and adjudge, and shall thereupon order the said prisoner to be apprehended and committed to custody, within the walls of any prison which the said Court shall direct, until he shall convey, assign and transfer such stock or other property, or so much thereof as the said Court shall direct, towards the satisfaction of the said judgment, to such assignee or assignees, for the general benefit of the creditors of such prisoner.

104- Where Insolvent shall, after Discharge, become entitled to Property which cannot be taken in Execution, the Assignee may apply to Court for Relief.

Court may order Prisoner to be re-sentenced to Custody until he transfers such Property.

And be it Enacted, That in case any person or persons, body politic or corporate shall, after any such insolvent shall have become entitled to the benefit of this Act by any such adjudication as aforesaid, become or be possessed of, or have under his or their power or control, any stock in the public funds of this country, or any legacy-money, due or growing due, bills of exchange, promissory notes, bank notes, securities for money, goods and chattels, or any other property whatsoever belonging to such insolvent, or held in trust for him, or for his use and benefit, or to which such insolvent shall be in any way entitled, or in case any such person or persons, body politic or corporate shall be at such period in any manner indebted to such insolvent, it shall be lawful for the said Court, upon the application of any assignee or creditor of such insolvent, to cause notice to be given to such person

105- Matter of proceeding where, after the Discharge of a Prisoner, any Person shall be possessed of Stock in public Funds, &c., belonging to him.

or persons, body politic or corporate, directing him or them to hold and retain the said property till the said Court shall make further order concerning the same; and thereupon it shall be lawful for the said Court further to order such person or persons, body politic or corporate, to deliver over such property, and to pay such debts as aforesaid, or any part thereof, into the Bank of Ireland, with the privy of the Chief Clerk of the said Court, or to the assignee or assignees of the estate and effects of such insolvent, for the general benefit of the creditors of such insolvent entitled to claim under such judgment entered up by order of the said Court as aforesaid; and such delivery and payment shall be made accordingly, in obedience to such order; and such person and persons, body politic and corporate, shall, by such payment and delivery so made in pursuance of such order of the said Court, be discharged in respect of such property and debts against all persons whatsoever to all intents and purposes: Provided also, That nothing herein contained shall be deemed or taken to prevent the said Court from authorizing the assignee or assignees of such prisoner proceeding upon the said judgment, which shall be entered up upon the warrant of attorney given by such prisoner, in any manner by this Act provided for judgment creditors against the estate and effects of judgment debtors.

106.
Persons discharged
under this
Act not liable
to imprisonment
in Debt,
&c., to which
Adjudication
extends.

If arrested, to
be released by
Judge of the
Court from
which Process
issued.

who may
order the
Court to be
paid to him.

And be it Enacted, That no person who shall have so become entitled to the benefit of this Act by any such adjudication as aforesaid shall at any time thereafter be imprisoned by reason of the judgment so as aforesaid entered up against him or her according to this Act, unless by the special order of the said Court as hereinbefore mentioned, or for or by reason of any debt or sum of money or costs with respect to which such person shall have become so entitled, or for or by reason of any judgment, decree or order for payment of the same; but that upon every arrest or detainer in prison upon any such judgment so entered up as aforesaid, or for or by reason of any such debt or sum of money or costs or judgment, decree or order for payment of the same, it shall be lawful for any Judge of the Court from which any writ or process shall have issued in respect thereof, and such Judge is hereby required upon proof made to his satisfaction that the cause of such arrest or detainer is such as hereinbefore mentioned, to release such prisoner from custody, unless it shall appear to such Judge upon inquiry that such adjudication as aforesaid was made without due notice, where notice is by this Act required being given to or acknowledged by the plaintiff in such writ or process, or being by him dispensed with by the acceptance of a dividend under this Act or otherwise; and at the same time, if such Judge shall in his discretion think fit, it shall be lawful for him to order such plaintiff, or any person or persons suing out such writ or process, to pay such prisoner the costs which he shall have incurred on such occasion, or so much thereof as to such Judge

Judge shall seem just and reasonable, such prisoner, in case of his or her having been arrested upon mesne process by special order as hereinbefore mentioned, causing a commo appearance to be entered for him in such action or suit.

5 And be it Enacted, That after any person shall have become entitled to the benefit of this Act by any such adjudication as aforesaid, no writ of capias ad satisfaciendum, fieri facias or other writ of execution against the body, goods or chattels of such prisoner shall issue on any judgment obtained against such prisoner for any debt or sum of money
10 with respect to which such person shall have so become entitled, nor in any action upon any new contract or security for payment thereof, except upon the judgment entered up against such prisoner according to this Act, and by special order of the said Court obtained for that purpose as hereinbefore mentioned; and that if any suit or action
15 shall be brought, or any scire facias be issued, against any such person, his heirs, executors or administrators, for any such debt or sum of money, or upon any new contract or security for payment thereof, or upon any judgment obtained against, or any statute or recognizance acknowledged by such person for the same except as aforesaid, it
20 shall be lawful for such person, his heirs, executors or administrators to plead generally that such person was duly discharged according to this Act by the order of adjudication made in that behalf, and that such order remains in force without pleading any other matter specially whereunto the plaintiff or plaintiffs shall or may reply generally and
25 deny the matters pleaded as aforesaid, or reply any other matter or thing which may show the defendant or defendants not to be entitled to the benefit of this Act, or that such person was not duly discharged according to the provisions thereof, in the same manner as the plaintiff or plaintiffs might have replied in case the defendant or defendants
30 had pleaded this Act and a discharge by virtue thereof specially.

Provided always, and be it Enacted, That if at any time after any such adjudication as aforesaid shall have been made with respect to any such prisoner in pursuance of this Act, it shall appear to the satisfaction of the said Court for the Relief of Insolvent Debtors, that
35 all the debts in respect of which such adjudication was made have been discharged and satisfied, or otherwise released, it shall be lawful for such Court, upon application duly made, to direct the warrant of attorney executed by such prisoner under this Act to be cancelled, or if judgment shall have been entered up thereon, to order satisfaction
40 to be entered on such judgment, and the order of the said Court for entering up such satisfaction shall be a sufficient authority to the proper officer for entering up the same; and that if in any case it shall appear to the satisfaction of the said Court that after the debts of any such prisoner shall have been so discharged and satisfied, or otherwise

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released

107.
After Discharge, no Execution to issue against Insolvent for Debt, Ac. to which Adjudication extends.

Discharge under this Act may be pleaded generally.

108.
When Debts are satisfied, the Court may order Warrant of Attorney to be cancelled, and Satisfaction to be entered on the Judgment;

and a Re-assignment to be cancelled.

released as aforesaid, there shall remain in the possession, or vested in or otherwise subject to the control of his or her assignee or assignees, any property of any kind or description whatsoever which has come to such assignee or assignees, or to which he or they may claim title by virtue of the order made in that behalf, or otherwise by virtue of his or their office of assignee or assignees, it shall be lawful for the said Court, on application duly made, to order that all such property so remaining as aforesaid shall be vested in the person whose debt shall have been so discharged and satisfied, or otherwise released as aforesaid, or his heirs, executors, administrators or assigns, and such order shall have the effect of vesting the same accordingly, and that any deed of release to be recorded in the said Court by which any such debt or debts shall be released or discharged shall not be liable to any stamp duty.

109.
Where Error
in Schedule
without
Fraud, this
Act to operate
upon the
actual
Amount of
Debt.

AND whereas it may sometimes happen that a debt of or claim upon or balance due from such prisoner as aforesaid may be specified in his schedule so sworn to as aforesaid, at an amount which is not exactly the actual amount thereof, without any culpable negligence or fraud or evil intention on the part of such prisoner; BE it Enacted, That in such case the said prisoner shall be entitled to all and every benefit and protection of this Act, notwithstanding such mistake in the amount of said debt in said schedule, and the creditor in that behalf shall be entitled to the benefit of all the provisions made for creditors by this Act in respect of the actual amount of such debt, claim or balance, and neither more nor less than the same to all intents and purposes, such error in the said schedule notwithstanding.

110.
Adjudication
and Order to
be final,
unless ob-
tained on false
Evidence, &c.
in which
case Court
may order a
re-hearing.

And be it Enacted, That every such adjudication as aforesaid by the said Court or Commissioner as aforesaid, with respect to any prisoner, and the order thereupon so made as aforesaid, shall be final and conclusive, and shall not be reviewed by the said Court unless the said Court shall thereafter see good and sufficient cause to believe that such adjudication has been made on false evidence, or otherwise improperly made or fraudulently obtained, in which case it shall be lawful for the said Court, upon the application of such prisoner or of any creditor of such prisoner, to order such prisoner, upon due notice to be given to such persons, and in such manner as the said Court shall direct, to attend or to be brought up, and the said matter to be reheard before the said Court, or one of the Commissioners thereof on his circuit, as the case may require, who shall thereupon rehear the same, and shall and may, if just cause shall appear, annul the original adjudication and order thereupon made in such case, and shall have the same powers and authorities upon such rehearing as upon any original hearing in pursuance of this Act, and may adjudicate in such matter accordingly; and thereupon, in case the former adjudication in the said matter shall not

not be confirmed, such order, certificate and warrant shall be made as required by this Act to be made upon such original adjudication; and the said Court or Commissioner shall and may, if necessary, remand the said prisoner to the same custody in which he was at the time of the former hearing of the matters of his petition, there to be subject to imprisonment as if the former adjudication therein had not been made; and thereupon all detainers which were in force against such prisoner at the time of his former discharge from custody, shall be deemed to be still in force against him as if such former adjudication had not been made; and the gaoler or keeper of the prison to which such prisoner shall be so remanded, shall and is hereby required to receive such prisoner into his custody in pursuance of such remand, for doing which the order of remand in such case shall be his sufficient warrant; and where in any case such prisoner shall refuse or neglect to appear before the said Court or Commissioner, according to such order for rehearing as aforesaid, a copy whereof shall have been duly served on such prisoner, it shall be lawful for the said Court to order such prisoner to be apprehended and committed to custody in such prison as the said Court shall direct, and to issue its warrant accordingly, and to cause such prisoner to be brought up for examination as often as to the said Court or Commissioner shall seem fit: Provided always, That where upon such rehearing it shall appear to the said Court or Commissioner that such prisoner is not entitled to the benefit of this Act until some future period, according to the provisions herebefore contained, the said Court or Commissioner shall and may, if it shall appear reasonable, adjudge the discharge of such prisoner at such future period, to be calculated without including the time during which such prisoner shall have been out of custody since the time appointed for his discharge by such former adjudication as aforesaid.

Those refusing to appear, may be apprehended, &c.

In Adjudication of Discharge or Rehearing, the time since former Hearing not to be calculated.

Provided always, and be it Enacted, That if in any case an order or warrant for the discharge of any such prisoner shall have issued erroneously, and which is not pursuant to the adjudication made in that behalf, it shall be lawful for the said Court or Commissioner, on such error being shown to the said Court or Commissioner, to revoke such order and warrant, and to annul, suspend or amend the same according to such adjudication, and if necessary, to recommit such prisoner to his former custody, when by such order or warrant he shall have been discharged therefrom; and the gaoler or keeper of the prison to whose custody such prisoner shall be so recommitted is hereby required to receive such prisoner into his custody according to such recommitment; and all detainers which were in force against such prisoner at the time of such discharge as aforesaid shall be deemed to be still in force against him, as if such erroneous order or warrant had not issued.

*111.
Where an Order of Discharge has been issued by Magistrate, the Court may revoke and amend the same*

112.
Prisoner may,
after Dis-
charge, be
examined as
to Estate and
Effects, on
application
of Assignee.

AND whereas the estate, both real and personal, of any person whose discharge has been adjudicated under this Act, may not be sufficiently described or discovered in his schedule so sworn to as aforesaid, or the assistance of such person may be necessary to adjust, make out, recover or manage his estate or effects for the benefit of his creditors; BE it therefore Enacted, That it shall be lawful for the assignee or assignees of the estate and effects of any such person whose discharge shall have been adjudicated under this Act, from time to time to apply to the said Court, that such person may be further examined as to any matters or things relating to his estate and effects either by the said Court, or a Commissioner thereof on his circuit; and in case such person shall neglect or refuse to appear before such Court or Commissioner at such time and place as shall be directed by such order, or appearing shall refuse to be sworn, or to answer such questions as shall be put to him relating to the discovery of his said estate and effects, then and in any of such cases it shall be lawful for such Court or Commissioner, by warrant to commit such person to the common goal of any county or place, there to remain without bail or mainprize until such time as he shall submit himself to the order of the said Court in that behalf, and shall answer upon oath or otherwise, as shall be required, to all such lawful questions as shall be put to him in pursuance of the same for the purposes aforesaid.

Prisoner re-
fusing to
appear, or to
answer Ques-
tions, may be
committed.

113.
Persons wil-
fully omitting
any thing in
the Schedule,
guilty of a
Misdemeanor,
and liable to
Three Years'
Imprison-
ment.

And be it Enacted, That in case any prisoner whose estate shall, by an order under this Act, have been vested in the said Provisional Assignee, shall, with intent to defraud the creditors or creditor of such prisoner, wilfully and fraudulently omit in his schedule, so sworn to as aforesaid, any effects or property whatsoever, or retain or except out of such schedule, as wearing apparel, bedding, working tools and implements, or other necessities, property of greater value than *Fifteen Pounds*, every such person so offending, and any person aiding and assisting him to do the same, shall, upon being thereof convicted by due course of law, be adjudged guilty of a misdemeanor; and thereupon it shall be lawful for the Court before whom such offender shall have been so tried and convicted, to sentence such offender to be imprisoned and kept to hard labour, for any period of time not exceeding *Three Years*; and that in every indictment or information against any person for any offence under this Act, it shall be sufficient to set forth the substance of the offence charged on the defendant, without setting forth the petition or order vesting such prisoner's estate in the Provisional Assignee, appointment of assignee or assignees, or balance-sheet, order for bearing, adjudication, order of discharge or remand, or any warrant, rule, order or proceeding of or in the said Court, except so much of the schedule of such prisoner

Indictment
need only
set out Sub-
stance of Of-
fence charged.

as may be necessary for the purpose of showing such wilful and fraudulent omission.

And be it Enacted, That if any prisoner or other person taking an oath under the provisions of this Act shall wilfully forswear and perjure himself in any oath to be taken under this Act, and shall be lawfully convicted thereof, the person so offending shall suffer such punishment as may by law be inflicted on persons convicted of wilful and corrupt perjury; and that in all cases wherein by this Act an oath is required, the solemn affirmation or declaration of any person, being a Quaker, or other person by law allowed to affirm or declare, shall and may be accepted and taken in lieu thereof; and that every person making such affirmation or declaration, who shall be convicted of wilful false affirmation or declaration, shall incur and suffer such and the same penalties as are inflicted and imposed upon persons convicted of wilful and corrupt perjury.

114.
Persons
swearing
falsely under
this Act,
liable to
Punishment
inflicted for
Perjury.

And be it Enacted, That the provisions of this Act shall extend to married women being prisoners within the intent and meaning of this Act, but that the order of the said Court vesting the estate and effects of any such married woman in such Provisional Assignee as aforesaid, shall operate upon all property, real and personal, to which she may be entitled for her separate use, or over which she shall have any power of disposition notwithstanding her coverture, or which shall be vested in any trustee or trustee, or other person or persons for her benefit, and upon all personal estate and effects of which she shall have the actual possession, except her wearing apparel, bedding and other such necessities, not exceeding in the whole the value of *Fifteen Pounds*, and upon all other real and personal estate and effects in which she shall be entitled in any manner whatsoever in possession, remainder or reversion, subject only to such right, title or interest as her husband may have therein, and without prejudicing any rights of her husband in such real and personal estate and effects respectively; and all provisions in this Act contained touching the real and personal estate of any prisoner, whose estate shall under this Act be vested in the said Provisional Assignee, shall apply to such real and personal estate and effects respectively, in the same manner as the same would apply to such real or personal estate and effects, if such woman had been sole and unmarried, subject only to the rights of her husband therein; and such married woman shall also execute a warrant of attorney to confess judgment in one of the Superior Courts aforesaid, for the amount of the debts remaining unpaid from which she shall be so discharged as aforesaid; and such warrant of attorney so executed, shall be sufficient authority for entering up judgment against such woman accordingly, notwithstanding the coverture, but such judgment shall not in any manner prejudice or affect the rights of her husband, except that the same

115.
Provisions
of Act ex-
tended to
married
Women.

shall be deemed and taken to be her debt, in case she shall die in the lifetime of such husband, to the end that the same may be discharged out of her personal assets in a due course of administration, or out of her real estate (if any) she shall have at the time of her death but without prejudice to any estate or interest of her husband therein as tenant by the courtesy; and in case such woman shall during the lifetime of her husband become entitled to any property for her separate use, such judgment may be enforced against such separate property by suit in equity, or otherwise under the order of the said Court, for the purpose of obtaining payment of so much of the debts in respect of which such woman shall have been discharged by the said Court as shall then remain unpaid; and in case such woman shall survive her said husband, such judgment may be after his death enforced against such woman or her property, real and personal, in such and the same manner and with the same effect as it might have been if she had been sole and unmarried at the time when she executed such warrant of attorney, and at the time when such judgment shall have been entered up aforesaid: Provided always nevertheless, That the discharge of any married woman under the authority of this Act, shall not operate to discharge her husband from any debt in respect of which his wife shall be so discharged, but such debt, so far as the same shall remain unpaid or unsatisfied, shall be chargeable upon and in force against such husband, as fully to all intents and purposes as if his wife had not obtained such discharge.

116.
Mode of proceeding with
Prisoners of
unsound
Mind.

And be it Enacted, That if any person who shall at any time be a prisoner in any such prison as aforesaid, upon any such process as aforesaid, shall be or become of unsound mind, and therefore incapable of taking the benefit of this Act in such manner as he or she might have done if of sound mind, the gaoler or keeper of such prison shall forthwith require One or more Justice or Justices of the Peace for the county, division or place wherein such prisoner shall be, to attend at the said prison, and inquire into the state of mind of such prisoner; and thereupon, and also in case any such Justice or Justices shall receive information by other means, that any such prisoner is of unsound mind as aforesaid, such Justice or Justices shall go to the said prison, and by his or their own view and by examination on oath of such person or persons as he or they shall think fit to examine, shall inquire into the state of mind of such prisoner; and if it shall appear to such Justice or Justices upon such inquiry that such prisoner is of unsound mind, and therefore incapable of taking the benefit of this Act in such manner as a person of sound mind might do, such Justice or Justices shall forthwith make a record of the fact, and certify the same to the said Court; and thereupon it shall be lawful for the said Court, at the instance of any person or persons on behalf of such prisoner, to order notice to be inserted in the Dublin Gazette, and in

Application
may be made
by Persons
on behalf of
such Pri-
soners.

Two

Two or more public newspapers usually circulated in the neighbourhood of such prison, and in the neighbourhood of the usual residence of such prisoner before he was committed to such prison, as the said Court shall see fit, that application will be made to the said Court for the discharge of such prisoner on a day to be specified in such order and notice, being *Twenty-one Days* at least, from the day of publication of such one of the said gazette and newspapers containing such notice as shall be last published; which notice, together with the service of the like notice on the creditor or creditors at whose suit such prisoner shall be detained in custody, or his or their attorney or attorneys in such suit, shall be deemed sufficient to authorize the said Court to proceed to the discharge of such prisoner, if otherwise entitled to such discharge, according to the true intent and meaning of this Act; and the said Court shall proceed accordingly, and shall discharge such prisoner from custody, and do all other acts under this Act, in case it shall appear that such prisoner might have obtained his or her discharge under this Act, if he or she had been of sound mind; and thereupon all and every estate, right, title, interest in law and equity, real and personal, power, benefit and emolument whatsoever, which, if such prisoner was of sound mind, could or ought to be vested in the said Provisional Assignee pursuant to the provisions of this Act, shall by force and virtue of the order of the said Court for the discharge of such prisoner, be vested in the Provisional Assignee of the said Court, or in the other assignee or assignees appointed by the said Court and named in the said order, or in any other order of the said Court in that behalf as fully and effectually, and in the same manner, and with all and every the same consequences and effects, both in fact and law, to all intents and purposes whatsoever, as if such prisoner had been of sound mind, and such order as aforesaid had been made vesting the same in such Provisional Assignee at the time and in the manner in this Act provided; and that it shall be lawful for the said Court to order judgment to be entered up against such prisoner in the same manner as if he or she had been of sound mind, and had executed a warrant of attorney to authorize the entering up of such judgment in the manner hereinbefore directed; and such order shall be a sufficient authority to the proper officer for entering up the same; and any dividend to be made by such assignee or assignees shall be made in such manner, and such proceedings shall be thereupon had as are hereinbefore provided in the case of a dividend of the estate and effects of any prisoner made before adjudication; and the discharge of every such prisoner of unsound mind so made as aforesaid, shall extend to all debts and sums of money to which the same might have extended if such prisoner had been of sound mind, and had duly filed his schedule according to the provisions of this Act: Provided always, That every such order of discharge and of the appointment of an assignee or assignees in such case, shall be entered of record in the said Court, and proof thereof

Court may
discharge
such Prisoner.

and may appoint Assignees.

May order Judgment to be entered up.

shall be received by such copy thereof as is hereinbefore directed to be received as proof of conveyances and assignments made in pursuance of this Act.

117.
Discharge
not to extend
to Crown
Debts,
unless Treas-
ury give
consent.

And be it Enacted, That this Act shall not extend or be construed to extend to discharge any prisoner with respect to any debt due to Her Majesty or Her successors, or to any debt or penalty with which he shall stand charged at the suit of the Crown, or any person for any offence committed against any Act or Acts of Parliament relative to any branch of the public revenue, or at the suit of any sheriff or other public officer upon any bail bond entered into for the appearance of any person prosecuted for any such offence, unless Three of the Commissioners of Her Majesty's Treasury for the time being shall certify under their hands their consent to such discharge.

118.
Prisoners
under Writ
of Capias or
Extent may
apply to the
Barons of the
Exchequer
to be dis-
charged.

And be it Enacted, That it shall be lawful for any person who may now or shall hereafter be imprisoned under or by virtue of any writ of capias or extent issued and remaining in force at the instance or for the benefit and reimbursement of any surety or sureties, or other person or persons, or the inhabitants of any parish, ward or place, who shall or may have advanced and paid the debt to the Crown, and by reason whereof the Commissioners of Her Majesty's Treasury may not be authorized to give their consent as last aforesaid, to apply to the Barons of Her Majesty's Court of Exchequer in Ireland for his discharge, giving One Month's previous notice in writing to the surety or sureties, or person or persons aforesaid, or to the churchwardens or overseers of the parish, ward or place, at whose instance or for whose benefit respectively such capias or extent shall remain in force, of the intention of such person so imprisoned to make such application, and an enumeration and description of all and every the property, debts and effects whatsoever of such person in his own possession or power, or in the possession or power of any other person or persons for his or her use; and for the said Court to whom such application shall be made, to order such person to be brought before them, or before any Baron of the said Court, to be examined upon oath touching and concerning his property and effects; and if such person shall, upon such examination, make a full disclosure of all his property and effects, and it shall otherwise appear to the satisfaction of such Court reasonable and proper that such person should be no longer imprisoned under such writ, for such Court or Baron to order a writ of supersedeas quoad corpus to be issued out of the said Court for the liberation of such person from such imprisonment: Provided always, That no such liberation as aforesaid shall be held or deemed to satisfy or supersede such extent or any proceeding thereon, except as to such imprisonment as aforesaid, or the debt or debts seized under and by virtue thereof, and for which such person shall be so imprisoned.

And

And be it further Enacted, That the proper officer of the said Court for the Relief of Insolvent Debtors shall, on the reasonable request of any such prisoner as aforesaid, or of any creditor or creditors of such prisoner, or his, her or their attorney, produce and shew to such prisoner, creditor or creditors, and his, her or their attorney, at such times as the said Court shall direct, such petition, vesting order, schedule, order of adjudication and all other orders and proceedings made and had in the matter of such petition, and all books, papers and writings filed in such matter, and permit him, her or them to inspect and examine the same, and shall provide for any such prisoner, creditor or creditors, or his or their attorney, or any other person requiring the same, a copy or copies of any such petition, vesting order, schedule, order of adjudication, or other order or proceeding, or of such part thereof as shall be so required, receiving such fee as is hereinbefore directed to be paid for other copies of proceedings in the said Court for so providing the same; and that a copy of such petition, vesting order, schedule, order of adjudication and other orders and proceedings purporting to be signed by the officer in whose custody the same shall be, or his deputy, certifying the same to be a true copy of such petition, vesting order, schedule, order of adjudication or other proceeding, and purporting to be sealed with the seal of the said Court, shall at all times be admitted in all courts and places whatever as sufficient evidence of the same, without any other proof whatever given of the same.

And be it Enacted, That every sheriff, gaoler, keeper or other officer of any prison who shall do any thing in obedience to any order of the said Court for the Relief of Insolvent Debtors, or of any Commissioner thereof, or of any officer of the said Court by virtue of this Act, shall be, and is and are hereby indemnified for whatsoever shall be done by them respectively in obedience thereto; and that if any action of escape, or any suit or action be brought against any Judge, Commissioner, Justice of the Peace, Sheriff, gaoler, keeper of any prison or any person for performing the duty of his office in pursuance of this Act, such Judge, Commissioner, Justice of the Peace, Sheriff, gaoler, keeper of prison and other person may plead the general issue, and give this Act and the special matter in evidence; and if the plaintiff be nonsuited, or discontinue his or her action, or a verdict shall pass against him or her, or judgment shall be had for the defendant upon demurrer, the defendant shall have *Treble* costs.

And be it Enacted, That in all rules, orders, warrants and other proceedings of the said Court or of any Commissioner thereof under this Act, it shall be sufficient to set forth such rule, order or warrant, or in case of a warrant for the apprehension or detention of any person for a contempt in disobeying any order or rule of the said Court,

119.
Officer of the Court to produce Proceedings and give Copies.

A Copy of such Proceedings under Seal to be admitted as Evidence.

120.
Sheriff, &c., indemnified for obeying Orders of Court.

If Action for Escape, &c., brought, the General Issue may be pleaded, and this Act given in Evidence.

121.
What shall be sufficient to be set forth in the Rules and Proceedings of the Court.

or for the apprehension or detention of any person for the appearance of such person before the said Court, or any Commissioner thereof according to this Act, or for the enforcing any rule or order of the said Court, it shall be sufficient to set forth such rule or order and the warrant thereon, and that the insolvent in any order, rule, warrant or other proceeding mentioned has been duly discharged under this Act or some other Act for the Relief of Insolvent Debtors, if he has been so discharged, or if he has not been so discharged, that he has applied by petition to the said Court for his or her discharge from custody according to the provisions of this Act, without setting forth in any such order, rule, warrant or other proceeding, the petition, order vesting the estate of any such prisoner in the Provisional Assignees, appointment of assignee or assignees, or the schedule, balance-sheet, order for hearing, adjudication, order for discharge, or any other rule, order or proceeding of or in the said Court or any part thereof, except as aforesaid.

122.
Before whom
Affidavits are
to be sworn.

And be it Enacted, That all affidavits to be used before the said Court or any Commissioner thereof, or any officer of the said Court, shall and may be sworn before the said Court or any Commissioner thereof, or any Commissioner appointed by the said Court for the purpose of taking affidavits, or any of the Superior Courts of Law, or any Justice of the Peace in his proper jurisdiction, or any Master Extraordinary in Chancery or Commissioner for taking affidavits in any of the Superior Courts of Law in Dublin, or any Inspector or Governor of any county gaol in Ireland or in England or Scotland, before a Magistrate of the county, division, city, town or place where the said affidavit shall be sworn, or any Commissioner of the Court for Relief of Insolvent Debtors in England, or any officer of the said Court in England authorized to take affidavits in the said Court in England, and the said several persons are hereby authorized and required to administer the same accordingly.

123.

And be it further Enacted, That no fee whatever shall be taken or received by any Court, officer or person whatsoever for or in respect of the swearing of any affidavit of the service of such order of the said Court for Relief of Insolvent Debtors in Ireland as aforesaid, appointing a time and place for any such prisoner as aforesaid to be brought up before such Court or a Commissioner thereof on his circuit, to be dealt with according to the provisions of this Act.

124.
Recovery of
Costs.

And be it Enacted, That in all cases in which the said Court or any Commissioner thereof is or are by this Act authorized to award costs against any person or persons, it shall be lawful for the said Court to cause such costs to be recovered from such person or persons in the same manner as costs awarded by a rule of any of the Superior Courts at Dublin may be recovered.

And

And he it Enacted, That the said Court for the Relief of Insolvent Debtors shall and may admit at their discretion any number of fit persons, being attorneys of any of the Superior Courts at Dublin, to practise in the said Court as attorneys on behalf of such prisoners in such actual custody as aforesaid, which admissions shall in all cases be made without the payment of any fee or gratuity whatsoever, and shall be filed of record in the said Court as aforesaid; and that in case any person not so admitted on the files of the said Court, or having after such admission been removed from the said files, or ceased to be an attorney of any of the Superior Courts at Dublin, shall practise in the said Court as an attorney on behalf of any prisoner in such actual custody as aforesaid, he shall be deemed and taken to be guilty of a contempt of the said Court, and that every person so guilty of any such contempt as aforesaid shall be liable to fine as well as imprisonment for the same; and it shall and may be lawful for any person being sworn and admitted an attorney in any of the Superior Courts in Dublin, and who shall obtain and produce to the proper officer of the said Court his annual certificate of his having duly paid the stamp duty payable by him as such attorney as is or may be required by any Act now in force or hereafter to be passed in relation to such stamp duty, to practise in the said Court as an attorney of the said Court; and that in case any person not so sworn and admitted as last aforesaid, or who shall not have obtained and produced such annual certificate as aforesaid, shall practise in the said Court as an attorney on behalf of any person, he shall be deemed and taken to be guilty of a contempt of the said Court; and if any person shall, with or without the authority or direction of an admitted attorney of the said Court, act or undertake to act in any manner on behalf of such prisoner in actual custody for the purpose of enabling such prisoner to obtain his discharge under this Act, and shall be guilty of wilful negligence or other misconduct whatsoever in relation thereto, every such person so offending shall be deemed and taken to be guilty of a contempt of the said Court, and shall be liable to be punished for the same accordingly.

And he it Enacted, That all printers and proprietors of newspapers shall and they are hereby required to insert any advertisement or advertisements by this Act directed to be inserted in any newspaper, on payment of such reasonable compensation for the insertion thereof, and in such form as the said Court or any Commissioner thereof shall from time to time direct.

And be it Enacted, That no letter of attorney, affidavit, certificate or other proceeding, instrument or writing whatsoever before or under any order of the said Court, or before or under any order of any Commissioner thereof, nor any copy thereof, nor any advertisement inserted

125.
Court for
which Attor-
neys to prac-
tise therein.

Person not
duly ap-
pointed, prac-
tising as At-
torney,
guilty of Con-
tempt.

126.
What shall
be paid for
insertion of
Advertise-
ments.

127.
Proceedings
not liable to
stamp duty,
nor bills to
Attorney
Duty.

serted in any newspaper by the direction of the said Court or a Commissioner thereof, or the Chief Clerk of said Court, relating to matters within the jurisdiction of the said Court, shall be liable to or chargeable or charged with the payment of any stamp or other duty whatsoever; and that no sale of any real or personal estate of any such prisoner as aforesaid for the benefit of his or her creditors under this Act shall be liable to any auction duty. 5

128.
Court may
invest un-
claimed
Money, and
apply Profit
towards Ex-
penses of the
Court.

AND whereas it may happen that money may remain in the said Court produced by the estates and effects of insolvent debtors who have taken the benefit of this or some other Act for the Relief of Insolvent Debtors, which has not been or may not be claimed by the assignees or creditors of such insolvents; BE it Enacted, That it shall be lawful for the said Court to cause the same or any part thereof to be invested in Government securities, and to apply the interest and profit arising therefrom towards defraying the expenses of the said Court: Provided always, That no such money shall be so invested until the same shall have been in the hands of the said Court for Twelve Months at the least. 15

129.
Court em-
powered, out
of Profit
arising from
unclaimed
Money, to
direct the
Payment of
Expenses of
Prisoner's
Discharge.

And be it Enacted, That it shall be lawful for the said Court for the Relief of Insolvent Debtors, in its discretion, to direct that the expenses of applying for and obtaining the discharge of any prisoner under this Act, or any part of such expenses, may and shall be paid out of the estate and effects of such prisoner which may be in the hands of the provisional or other assignee or assignees under this Act; and if the same shall not be sufficient for that purpose, then that such expenses or any part thereof may and shall, in cases where the said Court shall be satisfied that the prisoner has not the means of defraying the same, be paid and advanced out of the interest and profit arising from any Government securities upon which any unclaimed money produced by the estates and effects of insolvent debtors may be invested; and in every such last-mentioned case the estate and effects of such prisoner which may then be or may thereafter come to the hands and be vested in the provisional or other assignee or assignees under this Act, shall be liable, in the first place, to repay the money so advanced and paid, and the said Court is hereby authorized to make such order or orders as shall be necessary for the purpose. 30 35

130.
Records of
the Court.

And be it Enacted, That all the records, papers, documents and money of and belonging to or received under the authority of the said Court now established for the Relief of Insolvent Debtors, and hereby continued as aforesaid, shall from and after the passing of this Act remain and continue in the custody of the officers of the said Court, now duly having the custody of the same respectively, or of such officer or officers as the said Court shall at any time direct to receive the same; and 40

and that the said records shall be deemed and taken to be the records of the said Court so hereby continued as aforesaid.

And be it Enacted, That all records, documents and papers of and concerning persons discharged by virtue of an Act passed in the fifty-third year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for the Relief of Insolvent Debtors in Ireland;" or of an Act passed in the fifty-fourth, or of another Act passed in the fifty-sixth year of the reign of his said Majesty, to amend the said Act of the fifty-third year which shall not already have been delivered over, shall immediately after the passing of this Act be delivered over to the Chief Clerk of the said Court by the officer or officers or other persons having the custody of the same, and which said records shall be deemed and taken to be the records of the said Court.

131.
Records of
the Court for
Relief of In-
solvent
Debtors
under former
Acts to be
delivered
into the Cu-
stody of the
Chief Clerk.

And be it Enacted, That this Act shall extend to aliens, denizens and women, both to make them subject thereto and to entitle them to all the benefits given thereby; and all the powers given to or duties directed to be performed by the Lord Chancellor may be performed by the Lord Keeper or Lords Commissioners of the Great Seal; and that whenever this statute hath used words importing the singular number or the masculine gender only, it shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and that this Act shall not extend either to Scotland or England except where expressly mentioned.

132.
Construction
of Act.

And be it Enacted, That this Act may be amended, altered or repealed during this Session of Parliament.

133-
Act may be
altered

And be it Enacted, That this Act shall, as to all matters not otherwise provided for, commence and come into operation on the day of

134-
Commence-
ment of Act

One thousand eight hundred and Forty.

Imprisonment for Debt.

(Ireland.)

A

B I L L

For abolishing Arrest on Mesne Process in Civil Actions, except in certain cases; for extending the Remedies of Creditors against the Property of Debtors; and for amending the Laws for the Relief of Insolvent Debtors in Ireland.

(Presented and brought in by
Mr. Robinson-Grenell for England and Lord
Percival for Ireland.)

Ordered by The House of Commons, to be Printed
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